

Washington, Saturday, April 22, 1961

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GUIDE TO RECORD RETENTION REQUIREMENTS

[Up-dated to January 1, 1961]

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Rules and Regulations

Title 7—AGRICULTURE

Chapter IX-Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

¡Valencia Orange Reg. 2231

PART 922 - VALENCIA ORANGES **GROWN IN ARIZONA AND DESIG-**NATED PART OF CALIFORNIA

Limitation of Handling

§ 922.523 Valencia Orange Regulation 223.

(a) Findings. (1) Pursuant to the marketing agreement and Order No. 22. as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Administrative Committee. Orange established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated

among handlers of such Valencia oranges: it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 20, 1961.

(b) Order. (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 23, 1961, and ending at 12:01 a.m., P.s.t., April 30, 1961, are hereby fixed as follows:

(i) District 1: 400,000 cartons; (ii) District 2: 181,006 cartons: (iii) District 3: 100,000 cartons.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: April 21, 1961.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-3781; Filed, Apr. 21, 1961; 11:24 a.m.]

[Lemon Reg. 896]

PART 953-LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 953.1003 Lemon Regulation 896.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601– 674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure. and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 18, 1961.

(b) Order. (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., April 23, 1961, and ending at 12:01 a.m., P.s.t., April 30, 1961, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 279,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: April 20, 1961.

FLOYD F. HEDLUND. Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-3716; Filed, Apr. 21, 1961;

[Grapefruit Reg. 137]

PART 955—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF., AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Limitation of Shipments

§ 955.398 Grapefruit Regulation 137.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 55, as amended (7 CFR Part 955), regulating the handling of grapefruit grown in the State of Arizona; in Imperial County, California; and in that part of Riverside County, California, situated south and east of White Water, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Administrative Committee (established under the aforesaid amended marketing agreement and order), and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; and a reasonable time is permitted, under the circumstances, for preparation for such effective date. The Administrative Committee held an open meeting on April 13, 1961, to consider recommendations for a regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the regulation recommended by the committee has been disseminated to handlers of grapefruit, grown as aforesaid, and this section, including the effective time thereof, is identical with the recommendation of the committee; it is necessary, in order to effectuate the declared policy of the act, to make this section effective on the date hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) Order. (1) During the period beginning at 12:01 a.m., P.s.t., April 23, 1961, and ending at 12:01 a.m., P.s.t., August 31, 1961, no handler shall handle:

(i) Any grapefruit of any variety grown in the State of Arizona; in Imperial County, California; or in that part of Riverside County, California, situated south and east of White Water, California, unless such grapefruit grade at least U.S. No. 2; or

(ii) From the State of California or the State of Arizona to any point outside thereof in the United States, any grapefruit, grown as aforesaid, which measure less than 3% inches in diameter, except that a tolerance of 5 percent, by count, of grapefruit smaller than the foregoing minimum size shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in the revised United States Standards for Grapefruit (California and Arizona), §§ 51.925 to 51.955 of this title: Provided, That, in determining the percentage of grapefruit in any lot which are smaller than 3%6 inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size 313/16 inches in diameter and smaller.

(2) As used herein, "handler," "variety," "grapefruit," and "handle" shall have the same meaning as when used in said amended marketing agreement and order; the term "U.S. No. 2" shall have the same meaning as when used in the aforesaid revised United States Standards for Grapefruit; and "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: April 19, 1961.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-3683; Filed, Apr. 21, 1961; 8:51 a.m.]

[Peach Reg. 1]

PART 962—FRESH PEACHES GROWN IN GEORGIA

Limitation of Shipments

§ 962.320 Peach Regulation 1.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 62, as amended (7 CFR Part 962), regulating the handling of fresh peaches grown in Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that this order will tend to effectuate the declared policy of the act with respect to shipments of fresh peaches grown in Georgia.

(2) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this section until 30 days after publication thereof in the Federal Register (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the

time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than April 24, 1961. ments of the early varieties of the current crop of peaches are expected to begin on or about April 25, 1961, and this section should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(1) During the period be-(b) Order. ginning at 12:01 a.m., e.s.t., April 24, 1961, and ending at 12:01 a.m., e.s.t., September 1, 1961, no handler shall ship peaches in any bulk lot or any lot of packages (except peaches in bulk to destinations in the adjacent markets), which are of a size smaller than 17/8 inches in diameter, except that not more than ten (10) percent, by count, of such peaches in any bulk lot or any lot of packages may be of a size smaller than 1% inches in diameter, but not more than fifteen (15) percent, by count of such peaches in any individual package in any lot may be of a size smaller than 1% inches in diameter.

(2) The inspection requirement contained in § 962.64 is hereby suspended with respect to peaches in bulk shipped to destinations in the adjacent markets during the period specified in subparagraph (1) of this paragraph.

(3) When used in this section, the terms "handler," "adjacent markets," "peaches," "peaches in bulk," and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the term "diameter" shall have the same meaning as when used in the revised United States Standards for Peaches (§§ 51.1210 to 51.1223 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 20, 1961.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 61-3742; Filed, Apr. 21, 1961; 9:12 a.m.]

[1032.301, Amdt. 5]

PART 1032—CARROTS GROWN IN SOUTH TEXAS

Limitation of Shipments

Findings. a. Pursuant to Marketing Agreement No. 142 and Order No. 132, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found and determined that the amendment to the Limitation of Shipments, as hereinafter provided, will establish and maintain such minimum standards of quality and

maturity and such grading and inspection requirements as will tend to effectuate such orderly marketing as will be in the public interest, and is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress to establish under said act. It is hereby further found and determined that the estimated season average price to growers for carrots produced in the South Texas production area during the 1960–61 marketing season will be in excess of the parity level specified in section 2(1)

of the said act. b. It is hereby further found that it is impractical and contrary to the public interest to give preliminary notice and engage in public rule making procedure and that good cause exists for not postponing the effective date of this amendment for 30 days or any other period beyond the date hereinafter specified (5 U.S.C. 1001–1011) in that (i) minimum standards of quality and maturity as set forth herein will provide more orderly marketing of carrots regulated under provisions of Order No. 132 than would otherwise prevail, (ii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, and (iii) this amendment relieves restrictions.

Order. In § 1032.301 (25 F.R. 11207, 13828, 13631; 26 F.R. 220, 1464), delete the introductory paragraph and paragraphs (a), (b), (c), and (d), and substitute in lieu thereof a new introductory paragraph and new paragraphs (a) and (b) as set forth below. Also redesignate former paragraphs (e), (f), (g), (h), and (i), as new paragraphs (c), (d), (e), (f), and (g).

§ 1032.301 Limitation of shipments.

During the period April 24, 1961, to June 15, 1961, no person shall handle any lot of carrots grown in the production area unless such carrots meet the grade requirements of paragraph (a) of this section and size requirements of paragraph (b), of this section or unless such carrots are handled in accordance with paragraphs (c), (d), and (e) of this section.

(a) Minimum grade requirements.

U.S. No. 1 or better grade.

(b) Minimum size requirements—(1) Small-to-medium. 5% inch minimum diameter to 11% inches maximum diameter, 41/2 inches minimum length;

(2) Medium-to-large. $\frac{7}{8}$ inch minimum diameter to $\frac{1}{2}$ inches maximum diameter, 5 inches minimum length;

(3) Jumbo. 1 inch minimum diameter to 3 inches maximum diameter, 3 inches minimum length.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated April 19, 1961, to become effective April 24, 1961.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division.

[F.R. Doc. 61-3684; Filed, Apr. 21, 1961; 8:51 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 214—NONIMMIGRANT CLASSES

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

Fingerprinting Waiver

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 214.1 [Amendment]

1. The second sentence of § 214.1 General requirements for admission, extension, and maintenance of status is amended to read as follows: "A nonimmigrant other than one in the classes defined in (1) section 101(a) (15) (A) (i) or (ii) or (G) (i), (ii), (iii), or (iv) of the Act (members of which classes are not required to obtain extensions of stay if they continue to be so recognized by the Secretary of State as members of such classes); (2) section 101(a)(15) (C) or (D) of the Act (members of which classes are ineligible for extensions of stay); (3) Title V of the Agricultural Act of 1949, as amended, or (4) section 201 of the United States Information and Educational Exchange Act of 1948, as amended, and whose period of admission has not expired, shall apply on Form I-539 and may be granted or denied, without appeal, an extension of his period of temporary admission, and, in the case of a nonimmigrant alien of the class defined in section 101(a) (15) (F) of the Act, authorization of employment or practical training by an officer in charge of a suboffice or a district director.

2. Paragraph (e) of § 264.1 is amended to read as follows:

§ 264.1 Registration and fingerprinting.

(e) Fingerprinting waiver. (1) Fingerprinting is waived for nonimmigrant aliens admitted as foreign government officials and employees; international organization representatives, officers and employees; NATO representatives, officers and employees, and holders of diplomatic visas while they maintain such nonimmigrant status. Fingerprinting is also waived for other nonimmigrant aliens, while they maintain nonimmigrant status, who are nationals of countries which do not require fingerprinting of United States citizens temporarily residing therein.

(2) Fingerprinting is waived for every nonimmigrant alien not included in subparagraph (1) who departs from the United States within one year of his admission, provided he maintains his nonimmigrant status during that time; each such alien not previously fingerprinted shall apply therefor at once if

he remains in the United States in excess of one year.

(3) Every nonimmigrant alien not previously fingerprinted shall apply therefor at once upon his failure to maintain his nonimmigrant status.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relieve restrictions and confer benefits upon persons affected thereby.

Dated: April 17, 1961.

J. M. SWING, Commissioner of Immigration and Naturalization.

[F.R. Doc. 61-3713; Filed, Apr. 21, 1961; 8:52 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy
Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Miscellaneous Amendments

The following amendments establish the form of indemnity agreement which the Commission will execute with licensees furnishing insurance policies as proof of financial protection (§ 140.76); and the form of indemnity agreement which the Commission will enter into with licensees furnishing proof of financial protection in the form of the licensees resources. (§ 140.77)

The Commission acknowledges with appreciation the numerous, helpful comments and suggestions which have been received from interested members of the public and participants in industry advisory conferences. These comments have been taken into consideration in adoption of these amendments.

Principal features of the form of indemnity agreement contained in § 140.76 Appendix B include the following:

1. The form includes common occurrence provisions (Article I, par. 3; Article II, par. 6; Article III, par. 4) which are similar to the common occurrence provisions in the NELIA and MAELU insurance policy (§ 140.75 Appendix A). Inclusion of the common occurrence provision in the indemnity agreement goes far towards eliminating a gap in protection which might otherwise exist.

The common occurrence provisions in the proposed indemnity agreement published for public comment in the Federal Register on April 7, 1960, 25 F.R. 2999, did not fully eliminate the gap in coverage which might result from a "common occurrence". As stated in the statement of considerations published with the notice of proposed rule-making.

A remaining possible gap is due to the fact that, although the Commission's obligations under the common occurrence provisions begin at an amount equal to the sum of all applicable insurance required under the regulations or \$60,000,000, whichever is lower, NELIA and MAELU limit their responsibility to the capacity of their respective pools; that is, if all of the insurance policies applicable to the common occurrence are issued by one of the syndicates, the obligation of the insurers would not exceed the capacity of the particular syndicate (\$46,500,000 in the case of NELIA or \$13,500,000 in the case of MAELU).

The Commission requested the insurance pools (Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters) to consider the adoption of changes in their nuclear energy insurance policies (facility form) to eliminate this possible gap. In a letter dated December 22, 1960 (a copy of which is available for examination in the Commission's Public Document Room 1717 H Street NW., Washington 25, D.C.), the pools concluded that:

It should be emphasized that we have no objection to assuming liabilities up to \$60,000,000 in cases where the applicable limit of policies are equal to or in excess of that amount. Thus far, we have been unable to find a way to limit the loss liability of one pool to its insured by policies issued by the other pool to another insured. As pointed out earlier, if such a clause is not enforced by a court, the companies would be exposed beyond their commitments. The managers of the pools have no authority to expose the member companies in such a manner.

Consequently, the Commission has modified the common occurrence provisions of its indemnity agreement to eliminate this possible gap. (§ 140.76 Appendix B, par. 6, Article II.)

2. Provisions are included (Article I, par. 4(c) to protect against double coverage in the event a nuclear incident occurs in transportation of nuclear material between two indemnified licensed facilities. Under these provisions, the shipper's agreement would be applicable and the consignee's agreement would not be applicable.

A principal purpose of provisions covering transportation "to the location" is to cover shipments of nuclear fuel directly from a fuel element fabricator's plant to the site of the reactor in which the elements will be used as fuel.

3. Licensees furnishing proof of financial protection in the form of their own resources are required "to indemnify and hold harmless all persons indemnified as their interest may appear from public liability * * *". This obligation includes coverage of liability for damage to on-site property. Because the form of NELIA-MAELU policy does not cover such liability, the indemnity agreement in § 140.76 Appendix B, requires licensees furnishing the policies as financial protection to indemnify any person against liability for damage to on-site property (Article II, par. 2(b)). The Commission has recommended to the Congress that the indemnity provisions of the Atomic Energy Act of 1954 (§ 170) be amended to eliminate coverage of liability for damage to so-called "on-site"

property. If such legislation is enacted, paragraph 2b., Article II, of the proposed indemnity agreement (§ 140.76 Appendix B) would be deleted and a corresponding change would be made in the provisions of Article III of the agreement. Paragraph 1, Article II, and Article III of the agreement in § 140.77 Appendix C, would also be modified.

4. Under the Atomic Energy Act of 1954, as amended, the Commission is required to indemnify against damage to property of persons indemnified, provided that such property is covered under the terms of the financial protection and is not located at the site of, and used in connection with, the activity where the nuclear incident occurs. The financial protection provided by the NELIA-MAELU policy form covers damage to property of persons indemnified only if the property is away from the Accordingly, the form of indemnity agreement in Appendix B excludes coverage of damage to on-site property of persons liable for the nuclear incident (Article III, par. 2).

5. A provision is included in the indemnity agreement (Paragraph b. of Item 2 of the Attachment thereto) under which the Commission fills a "gap" between the financial protection and the Commission's indemnity obligation resulting from payments made by the insurers under a nuclear energy liability insurance policy. The agreement does not include the provision, contained in the form published in April 1960, establishing a \$1,000,000 floor under the Commission's obligation. In the event that the licensee does not obtain reinstatement of the amount of financial protection within ninety days after the date of a payment under the policy, a provision is included under which the Commission may issue an order requiring the licensee to furnish financial protection in another form (Article II, par. 2(a)).

6. A new article, Article VII, has been added to the indemnity agreement defining the "term" of the indemnity

agreement.

7. A number of comments received from members of the public suggest that certain provisions of the indemnity agreement be clarified to indicate more precisely the coverage of the indemnity agreement with respect to the time and place of occurrence of covered "nuclear incidents". The Commission has considered these suggestions, but has not made any change in the text of the agreement with respect to them. It is clear from the definition of "nuclear incident" in paragraph 3, Article I, that the "occurrence or series of occurrences" referred to are those which take place at the location or in the course of transportation". As stated in the report of the Joint Committee on Atomic Energy on H.R. 7383 (H.R. 435, 85th Cong., 1st Sess.), p. 16, "The occurrence which is the subject of this definition is that event at the site of the licensed activity * * * which may cause damage, rather than the site where the damage may be caused."

From the foregoing, it seems clear also that references in the indemnity

agreement to "nuclear incidents occurring during the term of this agreement" (Par. 4, Article II; par. 5, Article III), refer to such "occurrence or series of occurrences at the location or in the course of transportation"; and that any liability for damages caused by such occurrence or series of occurrences is covered by the agreement if the occurrence or series of occurrences takes place within the term of the agreement even though the damage resulted or became manifest after termination of the term of the agreement.

8. The statement of licensee's obligations under subsection 53e(8) of the Atomic Energy Act of 1954, as amended, has been deleted as suggested in a number of comments, and corresponding changes have been made in paragraph 3. Article II. This provision was in paragraph 3, Article II of the form published in April, 1960. The provision formerly in Item 2b(2) of the Attachment has also been deleted. These deletions are not considered as affecting the obligations of the various interests involved. Any obligations of the licensee under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability are substantially covered by the insurance

form in § 140.75 Appendix A.

9. Article IV applies in cases where the Commission determines that the United States will probably be required to make indemnity payments under the provisions of the agreement. The Article provides among other things, that the Commission "shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified * * * ". Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters in their letter of comments dated June 6, 1960 (a copy of which is on file in the Commission's Public Document Room) have objected to these provisions. They object on the ground that in this provision the "Commission has exceeded its statutory authority". They assert also that the provision is "impractical" because it would impede prompt claims handling. The Commission, however, believes it has authority under sections 161 and 170 of the Atomic Energy Act of 1954, as amended, to adopt the provision in question. In connection with the assertion that the provision is impractical, it should be noted that the provision does not require Commission approval, but only reserves to the Commission the right to require Commission approval. It is anticipated that this authority would be exercised only in special circumstances and in such manner as to avoid undesirable delay in the settlement and defense of claims and actions. Discussions have been held with both syndicates looking towards the adoption of an agreement between them and the AEC concerning claims investigations and handling. In light of such arrangements as may be made as the result of those discussions, it may be desirable to reconsider the provisions of Article IV.

10. Article III, paragraph 2, has been revised essentially by adding subparagraphs (c) and (d). These subparagraphs were added further to implement the exception in subsection 11u of the Act for "property which is located at the site of and used in connection with the activity where the nuclear incident occurs."

Changes have also been made in the definition of public liability to exclude indemnity coverage for employees on the transporting vehicle when an incident occurs in the course of transportation.

11. The following amendments also add a provision to Subpart A (§ 140.9) applicable to all indemnity agreements subject to Part 140 providing that the Commission will publish at least a fifteen-day prior notice in the FEDERAL REGISTER of its intent to enter into an indemnity agreement which differs from the applicable form set forth in the appendices in Part 140.

The form indemnity agreements do not affect contractual obligations of suppliers to reactor licensees to repair or replace components furnished by such

suppliers.

The form indemnity agreement in § 140.77 Appendix C, applies to licensees who furnish financial protection in the form of their own resources. That form is essentially similar to that in § 140.76 Appendix B, except for changes required by the difference in the form of financial protection.

The Commission has entered into temporary indemnity agreements with licensees pending adoption of the forms contained in these amendments. After the effective date of these amendments, the Division of Licensing and Regulation will tender to each licensee subject thereto a definitive indemnity agreement. These definitive agreements will, upon due execution, supersede the temporary indemnity agreements.

Notice is hereby given that the Commission has adopted the following amendments to Part 140, 10 CFR, "Financial Protection Requirements and Indemnity Agreements" to be effective ninety days after publication in the Federal

ERAL REGISTER.

1. The following section is added:

§ 140.9 Modifications of indemnity agreements.

The Commission will publish in the FEDERAL REGISTER a notice of its intent to enter into an indemnity agreement, or agreement amending an indemnity agreement, which contains provisions different from the form of the applicable indemnity agreement set forth in the appendices to this part, as such appendices may be amended from time to time. Such notices will provide at least a fifteen-day period following the date of publication in the FEDERAL REGISTER in which interested persons may file petitions for leave to intervene with respect to the proposed agreement.

§ 140.20 [Amendment]

- 2. Amend § 140.20(b) to read as follows:
- (b) (1) The general form of indemnity agreement to be entered into by the

Commission with licensees who furnish financial protection in the form of the nuclear energy liability insurance policy set forth in Appendix A is contained in § 140.76 Appendix B. The general form of indemnity agreement to be entered into by the Commission with licensees who furnish financial protection in the form specified in § 140.14(a) (2) is set forth in § 140.77 Appendix C.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this subpart shall contain such modifications of the applicable form in §§ 140.76 and 140.77, Appendices B and C, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this subpart shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

3. The following § 140.76 Appendix B, is added:

§ 140.76 Appendix B.

This indemnity agreement ______ is entered into by and between the ______ (hereinafter referred to as the "licensee") and the United States Atomic Energy Commission (hereinafter referred to as the "Commission") pursuant to subsection 170c of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

ARTICLE I

As used in this agreement.

1. "Nuclear reactor," "byproduct material," "person," "source material," and "special nuclear material" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission.

2. Except where otherwise specifically provided, "amount of financial protection" means the amount specified in Item 2 a and b, of the Attachment annexed hereto, as modified by paragraph 6, Article II, with

respect to common occurrences.

3(a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.

(b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive

or other hazardous properties of

i. The radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under subsection 170 c or k of the Act and so discharged or dispersed from "the location" as defined in any such other agreement, or

ii. The radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident,

4. "In the course of transportation" means in the course of transportation within the United Stafes, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or temporary storage incidental thereto;

(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage in-

cidental thereto;

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act.

5. "Person indemnified" means the licensee

5. "Person indemnified" means the licensee and any other person who may be liable for

public liability.

6. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed (a) at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims arising out of an act of war.

7. "The location" means the location described in Item 4 of the Attachment hereto.

8. "The radioactive material" means source, special nuclear, and byproduct material which (1) is used or to be used in, or is irradiated or to be irradiated by, the nuclear reactor or reactors subject to the license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s).

9. "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal

Zone and Puerto Rico.

ARTICLE II

1. At all times during the term of the license or licenses designated in Item 3 of the Attachment hereto, the licensee will maintain financial protection in the amount specified in Item 2 of the Attachment and in the form of the nuclear energy liability insurance policy designated in the Attachment. If more than one license is designated in Item 3 of the Attachment, the licensee agrees to maintain such financial protection until the end of the term of that license which will be the last to expire. licensee shall, notwithstanding the expiration, termination, modification, amendment, suspension or revocation of any license or licenses designated in Item 3 of the Attachment, maintain such financial protection in effect until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I, or until the Commission authorizes the termination or the modification of such financial protection. The Commission will not unreasonably withhold such authorization.

2(a) In the event of any payment by the insurer or insurers under a policy or policies specified in Item 5 of the Attachment hereto which reduces the aggregate limit of such policy or policies below the amount of fi-

nancial protection, the licensee will promptly apply to his insurers for reinstatement of the amount specified in Item 2a of the Attachment (without reference to paragraph b of Item 2) and will make all reasonable efforts to obtain such reinstatement. In the event that the licensee has not obtained reinstatement of such amount within ninety days after the date of such reduction, and in the absence of good cause shown to the contrary, the Commission may issue an order requiring the licensee to furnish financial protection for such amount in another form.

(b) The licensee undertakes and agrees to indemnify and hold harmless all persons indemnified, as their interest may appear, from public liability for damage to property

which is at the location.

3. Any obligations of the licensee under paragraph 2(b) of this Article, and under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability, together with any public liability satisfied by the insurers under the policy or policies designated in the Attachment hereto, shall not in the aggregate exceed the amount of financial protection with respect to any nuclear incident, including the reasonable costs of investigating and settling claims and defending suits for damage.

4. The obligations of the licensee under this agreement shall apply only with respect to nuclear incidents occurring during the

term of this agreement.

5. Upon the expiration or revocation of any license designated in Item 3 of the Attachment, the Commission will enter into an appropriate amendment of this agreement with the licensee reducing the amount of financial protection required under this Article; provided, that the licensee is then entitled to a reduction in the amount of financial protection under applicable Comfinancial protection under applicable Com-

mission regulations and orders.

6. With respect to any common occurrence, (a) If the sum of the limit of liability of any Nuclear Energy Liability Insurance Association policy designated in Item 5 of the Attachment and the limits of liability of all other nuclear energy liability insurance policies (facility form) applicable to such common occurrence and issued by Nuclear Energy Liability Insurance Association exceeds \$46,500,000, the amount of financial protection specified in Item 2 a and b of the Attachment shall be deemed to be reduced by that proportion of the difference between said sum and \$46,500,000 as the limit of liability of the Nuclear Energy Liability Insurance Association policy designated in Item 5 of the Attachment bears to the sum of the limits of liability of all other nuclear energy liability insurance policies (facility applicable to such common occurrence and issued by Nuclear Energy Liability Insurance Association;

(b) If the sum of the limit of liability of any Mutual Atomic Energy Liability Under-writers policy designated in Item 5 of the Attachment and the limits of liability of all other nuclear energy liability insurance policies (facility form) applicable to such common occurrence and issued by Mutual Atomic Energy Liability Underwriters exceeds \$13,500,000, the amount of financial protection specified in Item 2 a and b of the Attachment shall be deemed to be reduced by that proportion of the difference between said sum and \$13,500,000 as the limit of liability of the Mutual Atomic Energy Liability Underwriters policy designated in Item 5 of the Attachment bears to the sum of the limits of liability of all other nuclear energy liability insurance policies (facility form) applicable to such common occurrence and issued by Mutual Atomic Energy Liability Underwriters:

(c) If any of the other applicable agreements is with a licensee which licensee has furnished financial protection in a form

other than a nuclear energy liability insurance policy (facility form) issued by Nuclear Energy Liability Insurance Association or Mutual Atomic Energy Liability Underwriters, and if also the sum of the amount of financial protection established under this agreement and the amounts of financial protection established under all other applicable agreements exceeds \$60,000,000, the obligations of the licensee shall not exceed a greater proportion of \$60,000,000 than the amount of financial protection established under this agreement bears to the sum of such amount and the amounts of financial protection established under all other applicable agreements.

As used in this paragraph 6, Article II, and subparagraph 4(b), Article III, "other applicable agreements" means each other agreement entered into by the Commission pursuant to subsection 170c of the Act in which agreement the nuclear incident is defined as a "common occurrence." As used in this paragraph 6, Article II, "the obligations of the licensee" means the aggregate of the obligations of the licensee under paragraph 2(b) of this Article II, and under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability, together with any public liability satisfied by the insurers under the policy or policies designated in the Attachment, and the reasonable costs of investigating and settling claims and defending suits for damage

7. The obligations of the licensee under this Article shall not be affected by any failure or default on the part of the Commission or the Government of the United States to fulfill any or all of its obligations under this agreement. Bankruptcy or insolvency of any person indemnified other than the licensee, or the estate of any person indemnified other than the licensee, shall not relieve the licensee of any of his obligations

hereunder.

ARTICLE III

1. The Commission undertakes and agrees to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear from public liability.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the nuclear incident, the Commission agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligation of the Commission under this paragraph 2 does not apply with respect to:

(a) Property which is located at the location described in Item 4 of the Attachment or at the location described in Item 3 of the declarations attached to any nuclear energy liability insurance policy designated in Item

5 of the Attachment;

(b) Property damage due to the neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident;

(c) If the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle and containers used in such transportation;

(d) The radioactive material.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for liability.

4(a) The obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident (other than such property, described in the proviso to paragraph 2 of this Article), and such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed the amount of financial protection.

(b) With respect to a common occurrence, the obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident (other than such property described in the proviso to paragraph 2 of this Article), and to such reasonable costs described in paragraph 3 of this Article, as in the aggregate exceed whichever of the following is lower: (1) The sum of the amounts of financial protection established under this agreement and all other applicable agreements; or (2) \$60,000,000.

5. The obligations of the Commission under this agreement shall apply only with respect to nuclear incidents occurring during

the term of this agreement.

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed \$500,000,000 with respect to any nuclear incident.

7. The obligations of the Commission under this Article, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval

of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE VI

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VII

The term of this agreement shall commence as of the date and time specified in Item 6 of the Attachment and shall terminate at the time of expiration of that license specified in Item 3 of the Attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been

removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or any obligation of the Commission under this agreement with respect to any nuclear incident occur-ring during the term of this agreement.

UNITED STATES ATOMIC ENERGY COMMISSION

Indemnity Agreement No. _____ Item 1—Licensee Address Item 2-a. Amount of financial protection

b. With respect to any nuclear incident, the amount specified in Item 2a of this Attachment shall be deemed to be reduced to the extent that any payment made by the insurer or insurers under a policy or policies specified in Item 5 of this Attachment reduces the aggregate amount of such insurance policies below the amount specified in Item 2a.

Item 3-License number or numbers ___

Item 4—Location _____

Item 5-Insurance Policy No.(s)

Item 6-The indemnity agreement designated above, of which this Attachment is a part, is effective as of _ m., on the __ day of _____, 19__.

For the United States Atomic Energy Commission.

By -For the ___ (Name of licensee)

Dated at Germantown, Md., the _____ day of _____, 19 ___.

3. The following § 140.77 Appendix C, is added:

§ 140.77 Appendix C.

This indemnity agreement No. _____ is entered into by and between the _____(hereinafter referred to as the "licensee") and the United States Atomic Energy Com-mission (hereinafter referred to as the "Compursuant to subsection 170c of the mission" Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

ARTICLE I

As used in this agreement.

1. "Nuclear reactor," "byproduct material," "person," "source material," and "special nuclear material" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission.

2. "Amount of financial protection" means the amount specified in Item 2 of the Attachment annexed hereto.

- 3(a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.
- (b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive or other hazardous properties
- i. The radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any

other agreement or agreements entered into by the Commission under subsection 170 c or k of the Act and so discharged or dispersed from "the location" as defined in any such other agreement: or

ii. The radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

4. "In the course of transportation" means in the course of transportation within the United States, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or temporary storage incidental thereto;

(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage

incidental thereto:

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act.

5. "Person indemnified" means the licensee and any other person who may be liable for public liability.
6. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the location or, if the nuclear incident occurs in the course of transportation on the transporting vehicle, and (b) and in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims arising out of an act of war.

7. "The location" means the location described in Item 4 of the Attachment hereto.

8. "The radioactive material" means source, special nuclear, and byproduct material which (1) is used or to be used in, or is irradiated or to be irradiated by, the nuclear reactor or reactors subject license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s).

9. "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

ARTICLE II

1. The licensee undertakes and agrees to indemnify and hold harmless all persons indemnified, as their interest may appear, from public liability.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the incident, the licensee agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligation of the licensee under this paragraph 2 does not apply with respect to:

(a) Property which is located at the location and used in connection with the licensee's possession, use or transfer of the radioactive material:

(b) Property damage due to neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident;

(c) If the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle and containers used in such transportation; and

(d) The radioactive material.

3. Any obligations of the licensee under paragraphs 1 and 2 of this Article, and under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability shall not in the aggregate exceed the amount of financial protection with respect to any nuclear incident, including the reasonable costs of investigating and settling claims and defending suits for damage.

4. The obligations of the licensee under this agreement shall apply only with respect to nuclear incidents occurring during the

term of this agreement.

5. Upon the expiration or revocation of any license designated in Item 3 of the Attachment, the Commission will enter into an appropriate amendment of this agreement with the licensee reducing the amount of financial protection required under this Article; provided, that the licensee is then entitled to a reduction in the amount of financial protection under applicable Com-

mission regulations and orders.

6. With respect to a common occurrence, if the sum of the amount of financial protection established under this agreement and the amount of financial protection established under all other applicable agreements exceeds \$60,000,000, the obligations of the licensee described in paragraph 3 of this Article shall not exceed a greater proportion of \$60,000,000 than the amount of financial protection established under this agreement bears to the sum of such amount and the amounts of financial protection established under all other applicable agreements. As used in this paragraph, and in subparagraph 4(b), Article III, "other applicable agreements" means each other agreement entered into by the Commission pursuant to subsection 170c of the Act in which agreement the nuclear incident is defined as a "common occurrence".

7. The obligations of the licensee under this Article shall not be affected by any failure or default on the part of the Commission or the Government of the United States to fulfill any or all of its obligations under this agreement. Bankruptcy or insolvency of any person indemnified other than the licensee, or the estate of any person indemnified other than the licensee, shall not relieve the licensee of any of his obliga-

tions hereunder.

ARTICLE III

1. The Commission undertakes and agrees to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability.

2. With respect to damage caused by a

nuclear incident to property of any person legally liable for the nuclear incident, the Commission agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligation of the Commission under paragraph 2 does not apply with respect to:

(a) Property which is located at the location and used in connection with the licensee's possession, use or transfer of the

radioactive material;

(b) Property damage due to the neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident;

(c) If the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle and containers used in such transportation;

(d) the radioactive material.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for public liability.

4(a) The obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident, and such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed the amount of fi-

nancial protection.

(b) With respect to a common occurrence, the obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident (other than such property described in the proviso to paragraph 2 of this Article) and to such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed whichever of the following is lower: (1) The sum of the amounts of financial protection established under this agreement and to all other applicable agreements; or (2) \$60,000,000.

5. The obligations of the Commission under this agreement shall apply only with respect to nuclear incidents occurring dur-

ing the term of this agreement.

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed \$500,000,000 with respect to any nuclear incident.

7. The obligations of the Commission under this Article, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE VI

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VII

The term of this agreement shall commence as of the date and time specified in Item 6 of the attachment and shall terminate at the time of expiration of that license specified in Item 3 of the attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or any obligation of the Commission under this agreement with respect to any nuclear incident occurring during the term of this agreement.

UNITED STATES ATOMIC ENERGY COMMISSION

Indemnity Agreement No. _____

Attachment

Item	1—Licensee
	Address
Item	2-Amount of financial protection
Item	3-License number or numbers
Item	4—Location

Item 5—The Indemnity Agreement designated above, of which this Attachment is a part, is effective as of ____M., on the ____day of _____, 19__.

For the United States Atomic Energy Commission.

By ______ For the ______(Name of licensee)

Dated at Germantown, Md., the _____day of _____, 19__.

Dated at Germantown, Md., this 14th day of April 1961.

For the Atomic Energy Commission.

WOODFORD B. McCool, Secretary.

[F.R. Doc. 61-3639; Filed, Apr. 21, 1961; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency [Reg. Docket No. 349; Amdt. 40-29]

PART 40—SCHEDULED INTERSTATE
AIR CARRIER CERTIFICATION AND
OPERATION RULES

IFR Landing Minimums for Pilots With Less Than 100 Hours as Pilot in Command in a Particular Type of Airplane

The Federal Aviation Agency published as a notice of proposed rule making (25 F.R. 3554) and circulated as Civil Air Regulations Draft Release No. 60–7 on April 18, 1960, a proposal to amend Parts 40, 41, and 42 of the Civil Air Regulations

to require that higher landing minimums be made applicable to all pilots in command who have not served 100 hours as pilot in command in air carrier operations in a particular type of airplane.

Standard operating limitations, presently contained in the operations specifications of all air carriers subject to Part 40, require that ceiling and visibility minimums for IFR landings be increased by 100 feet ceiling and ½ mile visibility for those pilots who have not served 100 hours as pilot in command in air carrier operations in a particular type of airplane. As this requirement is applicable to all scheduled interstate air carriers and commercial operators subject to Part 40 of the Civil Air Regulations, it is appropriate that it be included in the Civil Air Regulations rather than in the air carriers' operations specifications.

These limitations, which are presently contained in the operations specifications, permit a pilot in command to operate at the lower IFR landing minimums prior to obtaining the required 100 hours experience if a company check pilot certifies that he is qualified to do so. Investigation of the practice among air carriers has revealed wide variations in making the determination that a pilot is qualified for the lower landing minimums prior to his attaining 100 hours as pilot in command in a particular type of airplane. This has resulted in pilots being certified to operate at the lower landing minimums after having attained, in some instances, only a small fraction of the required 100 hours.

While the air carriers, in commenting on Draft Release 60-7, expressed their belief that the limitations presently contained in the operations specifications are basically sound, the majority of all comments received in response to the draft release indicated concurrence with adoption of a regulation requiring higher IFR landing minimums for pilots who have not acquired a specified amount of experience as pilot in command in a particular type of airplane in air carrier operations. In addition, the majority of comment suggested that in no case should this requirement be subject to reduction at the discretion of a company check pilot.

There were also suggestions made that certain other factors, such as the pilot's previous experience, his overall proficiency, his knowledge of the particular airport, and the number of approaches and landings made in the new type of airplane, should be recognized and substituted for a portion of the required 100 hours. While these suggestions have merit, it is believed that the factors to be considered could become so numerous, and difficult to assess in terms of an equivalent number of flight hours, as to diminish the effectiveness of the rule.

The safe execution of an instrument approach to the lowest minimums requires the highest degree of pilot familiarity with the airplane, its controls, instruments, and performance characteristics. One hundred hours of experience in a new type of airplane as pilot in command in air carrier or commercial operations is necessary in order to

achieve this degree of familiarity so essential to safe operations at the lowest landing minimums.

The Federal Aviation Agency therefore believes that, in the interest of safety, all pilots in command should use IFR landing ceiling and visibility weather minimums 100 feet higher and ½ mile greater than regularly approved minimums, until they have obtained 100 hours of air carrier or commercial operator pilot-in-command experience in a particular type of airplane.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant

matters presented.

In consideration of the foregoing, \$40.406 of Part 40 of the Civil Air Regulations (14 CFR Part 40, as amended) is hereby amended by adding a new paragraph (e) to read as follows, effective May 23, 1961:

§ 40.406 Takeoff and landing weather minimums; IFR.

* * * *

(e) The ceiling and visibility landing minimums prescribed in the air carrier's operations specifications for regular, provisional, or refueling airports shall be increased by 100 feet ceiling and 1/2 mile visibility whenever the pilot in command has not served 100 hours as pilot in command in air carrier or commercial operations in the particular type of airplane being operated by him. The ceiling and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport. The sliding scale, when authorized in the air carrier's operations specifications, shall not be applied until the pilot in command has served 100 hours as pilot in command in air carrier or commercial operations in the particular type of airplane being operated by him.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on April 17, 1961.

N. E. HALABY, Administrator.

[F.R. Doc. 61-3668; Filed, Apr. 21, 1961; 8:49 a.m.]

[Reg. Docket No. 349; Amdt. 41-37]

PART 41—CERTIFICATION AND OP-ERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUT-SIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

IFR Landing Minimums for Pilots With Less Than 100 Hours as Pilot in Command in a Particular Type of Airplane

The Federal Aviation Agency published as a notice of proposed rule making (25 F.R. 3554) and circulated as Civil Air Regulations Draft Release No. 60–7 on April 18, 1960, a proposal to amend Parts 40, 41, and 42 of the Civil Air Regulations to require that higher landing minimums be made applicable to all pilots in command who have not served 100 hours

as pilot in command in air carrier operations in a particular type of airplane.

Standard operating limitations, presently contained in the operations specifications of all air carriers subject to Part 41, require that ceiling and visibility minimums for IFR landings be increased by 100 feet ceiling and ½ mile visibility for those pilots who have not served 100 hours as pilot in command in air carrier operations in a particular type of airplane. As this requirement is applicable to all scheduled international air carriers, and commercial operations subject to Part 41 of the Civil Air Regulations. it is appropriate that it be included in the Civil Air Regulations rather than in the air carrier's operations specifications.

These limitations, which are presently contained in the operations specifications, permit a pilot in command to operate at the lower IFR landing minimums prior to obtaining the required 100 hours experience if a company check pilot certifies that he is qualified to do so. Investigation of the practice among air carriers has reveiled wide variations in making the determination that a pilot is qualified for the lower landing minimums prior to his attaining 100 hours as pilot in command in a particular type of airplane. This has resulted in pilots being certified to operate at the lower landing minimums after having attained, in some instances, only a small fraction of the required 100 hours.

While the air carriers, in commenting on Draft Release No. 60-7, expressed their belief that the limitations presently contained in the operations specifications are basically sound, the majority of all comments received in response to the draft release indicated concurrence with adoption of a regulation requiring higher IFR landing minimums for pilots who have not acquired a specified amount of experience as pilot in command in a particular type of airplane in air carrier operations. In addition, the majority of comment suggested that in no case should this requirement be subject to reduction at the discretion of a company check pilot.

There were also suggestions made that certain other factors, such as the pilot's previous experience, his overall proficiency, his knowledge of the particular airport, and the number of approaches and landings made in the new type of airplane, should be recognized and substituted for a portion of the required 100 hours. While these suggestions have merit, it is believed that the factors to be considered could become so numerous, and difficult to assess in terms of an equivalent number of flight hours, as to diminish the effectiveness of the rule.

The safe execution of an instrument approach to the lowest minimums requires the highest degree of pilot familiarity with the airplane, its controls, instruments, and performance characteristics. One hundred hours of experience in a new type of airplane as pilot in command in air carrier or commercial operations is necessary in order to achieve this degree of familiarity so essential to safe operations at the lowest landing minimums.

The Federal Aviation Agency therefore believes that, in the interest of safety, all pilots in command should use IFR landing ceiling and visibility weather minimums 100 feet higher and ½ mile greater than regularly approved minimums, until they have obtained 100 hours of air carrier or commercial operator pilot-in-command experience in a particular type of airplane.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant

matters presented.

In consideration of the foregoing, § 41.119 of Part 41 of the Civil Air Regulations (14 CFR Part 41, as amended) is hereby amended by adding a new paragraph (d) to read as follows, effective May 23, 1961:

§ 41.119 Approach and landing limitations.

* * * * *

(d) The ceiling and visibility landing minimums prescribed in the air carrier's operations specifications for regular, provisional, or refueling airports shall be increased by 100 feet ceiling and 1/2 mile visibility whenever the pilot in command has not served 100 hours as pilot in command in air carrier or commercial operations in the particular type of airplane being operated by him. The ceiling and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport. The sliding scale, when authorized in the air carrier's operations specifications, shall not be applied until the pilot in command has served 100 hours as pilot in command in air carrier or commercial operations in the particular type of airplane being operated by him.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on April 17, 1961.

N. E. HALABY, Administrator.

[F.R. Doc. 61-3669; Filed, Apr. 21, 1961; 8:49 a.m.]

[Reg. Docket No. 349; Amdt. 42-32]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

IFR Landing Minimums for Pilots With Less Than 100 Hours as Pilot in Command in a Particular Type of Airplane

The Federal Aviation Agency published as a notice of proposed rule making (25 F.R. 3554) and circulated as Civil Air Regulations Draft Release No. 60–7 on April 18, 1960, a proposal to amend Parts 40, 41, and 42 of the Civil Air Regulations to require that higher landing minimums be made applicable to all pilots in command who have not served 100 hours as pilot in command in air carrier operations in a particular type of airplane.

Standard operating limitations presently contained in the scheduled air carriers' operations specifications require that ceiling and visibility minimums for IFR landings be increased by 100 feet

ceiling and 1/2 mile visibility for those pilots who have not served 100 hours as pilot in command in air carrier operations in a particular type of airplane. All of the irregular air carrier operating certificates do not presently contain similar limitations, but standard operations specifications, which do include such a limitation, have been issued recently for inclusion in their operating certificates. However, as this requirement is applicable to all air carrier and commercial operations involving large aircraft, it is appropriate that it be included in the Civil Air Regulations rather than in the air carriers' operations specifications.

The limitations, which are presently contained in the scheduled air carriers' operations specifications, permit a pilot in command to operate at the lower IFR landing minimums prior to obtaining the required 100 hours experience if a company check pilot certifies that he is qualified to do so. Investigation of the practice among air carriers has revealed wide variations in making the determination that a pilot is qualified for the lower landing minimums prior to his attaining 100 hours as pilot in command in a particular type of airplane. This has resulted in pilots being certified to operate at the lower landing minimums after having attained, in some instances, only a small fraction of the required 100

While the scheduled air carriers, in commenting on Draft Release 60-7, expressed their belief that the limitations presently contained in the operations specifications are basically sound, the majority of all comments received in response to the draft release indicated concurrence with adoption of a regulation requiring higher IFR landing minimums for pilots who have not acquired a specified amount of experience as pilot in command in a particular type of airplane in air carrier operations. In addition, the majority of comment suggested that in no case should this requirement be subject to reduction at the discretion of a company check pilot.

There were also suggestions made that certain other factors, such as the pilot's previous experience, his overall proficiency, his knowledge of the particular airport, and the number of approaches and landings made in the new type of airplane, should be recognized and substituted for a portion of the required 100 hours. While these suggestions have merit, it is believed that the factors to be considered could become so numerous and difficult to assess in terms of an equivalent number of flight hours, as to diminish the effectiveness of the rule.

The safe execution of an instrument approach to the lowest minimums requires the highest degree of pilot familiarity with the airplane, its controls, instruments, and performance characteristics. One hundred hours of experience in a new type of airplane as pilot in command in air carrier or commercial operations is necessary in order to achieve this degree of familiarity so essential to safe operations at the lowest landing minimums.

The Federal Aviation Agency therefore believes that, in the interest of safety,

all pilots in command should use IFR landing ceiling and visibility weather minimums 100 feet higher and 1/2 mile greater than regularly approved mini-mums, until they have obtained 100 hours of air carrier or commercial operator pilot-in-command experience in a particular type of airplane.

This amendment is applicable only to large aircraft operated by air carrier and commercial operators in accordance with the provisions of Part 42. Proposed Part 47, if adopted, will govern those small aircraft operations now subject to Part 42. Consideration is being given to including, in Part 47, rules for high performance aircraft similar to those set forth in this amendment.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matters presented.

In consideration of the foregoing, § 42.55 of Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) is hereby amended by adding a new paragraph (c) to read as follows, effective May 23, 1961.

*

§ 42.55 Weather minimums. *

(c) The ceiling and visibility landing minimums prescribed in the air carrier's operations specifications for an airport, other than an alternate airport, shall be increased by 100 feet ceiling and 1/2 mile visibility whenever the pilot in command of a large airplane has not served 100 hours as pilot in command in air carrier or commercial operations in that particular type of airplane. The ceiling and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport. The sliding scale, when authorized in the air carrier's operations specifications, shall not be applied until the pilot in command has served 100 hours as pilot in command in air carrier or commercial operations in the particular type of airplane being operated by him.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1424)

Issued in Washington, D.C., on April 17, 1961.

N. E. HALABY, Administrator.

[F.R. Doc. 61-3670; Filed, Apr. 21, 1961; 8:49 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E-AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-NY-1011

PART 600-DESIGNATION OF FEDERAL AIRWAYS

PART 601-DESIGNATION OF CON-TROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CON-TROL AREAS

Alteration of Federal Airways and Associated Control Areas

On January 28, 1961, a notice of proposed rule making was published in the

FEDERAL REGISTER (26 F.R. 917) stating that the Federal Aviation Agency proposed to alter VOR Federal airway Nos. 72 and 490 and the control areas associated with these airways.

Although proposed in the notice, no action is taken herein regarding Victor 490 and its associated control areas. Instead, the actions proposed regarding Victor 490 have been incorporated in Airspace Docket No. 59-WA-331, which becomes effective concurrently with this action.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore. pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following actions are taken:

§ 600.6072 [Amendment]

1. In § 600.6072 (14 CFR 600.6072, 25 F.R. 855, 2574, 4376, 3813, 8809, 12408) the following changes are made:

(a) In the caption "Fayetteville, Ark., to Ipswich, Mass." is deleted and "Fayetteville, Ark., to Lafayette, Ind.; and Findlay, Ohio, to Williamsville, Vt." is substituted therefor.

(b) In the text "Albany, N.Y., VOR; INT of the Albany VOR 075° T and the Keene VOR 285° T radials; Keene, N.H., VOR; Manchester, N.H., VOR; to the INT of the Manchester VOR 117° T and the Boston, Mass., VOR 014° T radials." is deleted and "Albany, N.Y., VORTAC; to the INT of the Albany VORTAC 075° and the Cambridge, N.Y., VOR 094° radials." is substituted therefor.

2. Section 601.6072 (14 CFR 601.6072, 25 F.R. 4376) is amended to read:

§ 601.6072 VOR Federal airway No. 72 control areas (Fayetteville, Ark., to Lafayette, Ind.; and Findlay, Ohio, to Williamsville, Vt.).

All of VOR Federal airway No. 72. (Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

These amendments shall become effective 0001 e.s.t., June 29, 1961.

Issued in Washington, D.C., on April 17, 1961.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3642; Filed, Apr. 21, 1961; 8:45 a.m.]

[Airspace Docket No. 60-NY-112]

PART 600-DESIGNATION OF FEDERAL AIRWAYS

PART 601-DESIGNATION OF CON-TROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CON-TROL AREAS

Alteration and Revocation of Federal Airways and Associated Control Areas

On December 9, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 12622) stating that the Federal Aviation Agency proposed to alter VOR Federal airways No. 123, 157, 166, 239, and 276 and revoke a segment of VOR Federal airway No. 166.

No adverse comments were received regarding the proposed amendments. Subsequent to publication of the notice, it has been determined that an extension of VOR Federal airway No. 213 from Kenton, Del., to Columbus, N.J., is required to more effectively exercise air traffic management in this area. This extension will be over existing airways; therefore, no aditional allocation of airspace will result from this alteration. In addition, the segment of VOR Federal airway No. 157 between Richmond, Va., and Washington, D.C., coincides in part with Restricted Area R-6612 (formerly R-38B). At the present time, prior approval from air route traffic control is required before the portion of V-157 that coincides with R-6612 can be used. To permit full use of all altitudes on V-157 without regard to the activities conducted within R-6612, action is taken herein to exclude the portion of V-157 which coincides with R-6612.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all

relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, the following actions are taken:

§ 600.6123 [Amendment]

1. In the text of § 600.6123 (14 CFR 600.6123) "VOR; INT of the Baltimore VOR 035° and the New Castle VOR 257° radials; New Castle, Del., VOR; Woodstown, N.J., VOR; point of INT of the Pottstown, Pa., VOR 104° radial with the Robbinsville VOR direct radial to the New Castle VOR;" is deleted and "VORTAC; INT of the Baltimore VORTAC 035° and the New Castle, Del., VORTAC 260° radials; New Castle VORTAC;" is substituted therefor.

§ 600.6157 [Amendment]

2. In § 600.6157 (14 CFR 600.6157, 25 F.R. 1990, 2885, 6266, 3814, 8861, 26 F.R. 573, 1754, 2344) the following changes are made:

(a) In the caption "Washington, D.C." is deleted and "New York, N.Y." is sub-

stituted therefor.

(b) In the text "Washington VOR 190° True radials." is deleted and "Washington VOR 190° radials; Baltimore, Md., VORTAC; INT of the Baltimore VORTAC 035° and the New Castle, Del., VORTAC 260° radials; New Castle VORTAC; Robbinsville, N.J., VOR; INT of the Robbinsville VOR 097° and the Idlewild, N.Y., VORTAC 212° radials; to the Idlewild VORTAC." is substituted therefor and "The portion of this airway which lies within the geographic limits

of, and between the designated altitudes of, the Camp Pickett Restricted Area (R-44) is excluded during this restricted area's time of designation. The portion of this airway which lies within the geographic limits of, and between the established altitudes of, the Key West Warning Area (W-173) is excluded during this warning area's established time of use. The portions of this airway which lie within the geographic limits of, and between the designated altitudes of, the Dahlgren Restricted Area (R-38B) and the Camp A. P. Hill Restricted Area (R-40) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control." is deleted and "The portions of this airway which coincide with R-6602 and R-6612 are excluded during the times of designation of the restricted areas. The portion of this airway which coincides with R-6601 shall be used only after obtaining prior approval from appropriate authority." is substituted therefor.

3. Section 600.6166 (14 CFR 600.6166, 25 F.R. 1207, 3155) is amended to read:

§ 600.6166 VOR Federal airway No. 166 (Parkersburg, W. Va., to New Castle, Del.).

From Parkersburg, W. Va., VOR via the Clarksburg, W. Va., VOR; Kessel, W. Va., VOR; Martinsburg, W. Va., VOR-TAC; Westminster, Md., VOR, to the New Castle, Del., VORTAC.

4. Section 600.6239 (25 F.R. 6418) is amended to read:

§ 600.6239 VOR Federal airway No. 239 (Sea Isle, N.J., to New Castle, Del.).

From the Sea Isle, N.J., VOR via the Woodstown, N.J., VOR, to the New Castle, Del., VORTAC.

§ 600.6276 [Amendment]

5. In the text of \$600.6276 (14 CFR 600.6276, 25 F.R. 2885, 856, 4899) "to the point of intersection of the Yardley omnirange 098° True radial with the Coyle, N.J., omnirange direct radial to the Idlewild, N.Y., omnirange station." is deleted and "Robbinsville, N.J., VOR, to the INT of the Robbinsville VOR 097° and the Coyle, N.J., VOR 058° radials." is substituted. therefor.

§ 600.6213 [Amendment]

6. In § 600.6213 (14 CFR 600.6213, 25 F.R. 1938, 10798) the following changes are made:

(a) In the caption "Kenton, Del." is deleted and "Columbus, N.J." is sub-

stituted therefor.

(b) In the text "to the Kenton, Del., VORTAC," is deleted and "Kenton, Del., VORTAC; Woodstown, N.J., VOR, to the INT of the Pottstown, Pa., VOR 104° radial with the Robbinsville, N.J., VOR direct radial to the New Castle, Del., VORTAC," is substituted therefor.

§ 601.6157 [Amendment]

7. In the caption of § 601.6157 (14 CFR 601.6157, 25 F.R. 1990, 2885) "Washington, D.C." is deleted and "New York, N.Y." is substituted therefor.

§ 601.6166 [Amendment]

8. In the caption of § 601.6166 (14 CFR 601.6166, 25 F.R. 1207, 3155) "to Morris, Pa., and Hoopes, Del., to Colts Neck, N.J." is deleted and "to New Castle, Del." is substituted therefor.

§ 601.6239 [Amendment]

9. In the caption of §601.6239 (14 CFR 601.6239, 25 F.R. 6418) "to Boothwyn, Pa." is deleted and "to New Castle, Del." is substituted therefor.

§ 601.6213 [Amendment]

10. In the caption of \$601.6213 (14 CFR 601.6213, 25 F.R. 10798) "to Kenton, Del." is deleted and "to Columbus, N.J." is substituted therefor.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

These amendments shall become effective 0001 e.s.t., June 29, 1961.

Issued in Washington, D.C., on April 17, 1961.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3643; Filed, Apr. 21, 1961; 8:45 a.m.]

[Airspace Docket No. 59-WA-331]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Modification; Change of Federal Airway and Effective Date

On April 13, 1960, there were published in the FEDERAL REGISTER (25 F.R. 3156) amendments to Parts 600 and 601 and §§ 600.6431, 600.6203, 600.6091, 601.6431, and 601.6091 of the regulations of the Administrator. These amendments, to be effective January 12, 1961, designated VOR Federal airway No. 487 and its associated control areas from Poughkeepsie, N.Y., to Benson, Vt.; designated VOR Federal airway No. 490 and its associated control areas from Utica, N.Y., to Keene, N.H.; extended VOR Federal airway No. 431 and its associated control areas from Glens Falls, N.Y., to Cambridge, N.Y.; modified VOR Federal airway No. 203 between Chester, Mass., and Brainard, N.Y.; and revoked VOR Federal airway No. 91 east alternate and its associated control areas between Poughkeepsie, N.Y., and Albany, N.Y., concurrently with the commissioning of a VOR near Cambridge, N.Y.

On November 30, 1960, a modification of amendments was published in the Federal Register (25 F.R. 12234) postponing the effective date of the abovementioned amendments until June 1, 1961, due to a delay in commissioning of the Cambridge, N.Y., VOR.

On January 25, 1961, another Modification of Amendments was published (26 F.R. 711) which altered Victor airway 91 and its associated control areas.

In the original rule published in the FEDERAL REGISTER on April 13, 1960, VOR Federal airway No. 490 and its associated control areas were designated from the Utica, N.Y., VOR via the Cambridge, N.Y., VOR to the Keene, N.H., VOR. However, it has since been determined that it would facilitate air traffic management to designate Victor 490 from the Utica VOR via the Cambridge VOR and the Manchester, N.H., VOR to the Ipswich Intersection (intersection of the Manchester VOR 117° and the Boston, Mass., VORTAC 014° True radials). Aligned in this fashion, Victor 490 would underlie intermediate altitude airway No. 1502 from the Williamsville Intersection (intersection of the Albany, N.Y., VORTAC 075° and the Gardner, N.Y., VORTAC 312° True radials) to the Ipswich Intersection and would accommodate aircraft in transition between the intermediate and low altitude airway systems. Therefore, action is taken herein to reflect this change in the designation of Victor 490.

Additionally, the commissioning date of the Cambridge VOR has again been rescheduled. Therefore, it is necessary to postpone the effective date of this

docket until June 29, 1961.

Since thirty days will elapse from the time of publication of these amendments as modified herein to this new effective date, this change is made in compliance with section 4 of the Administrative Procedure Act.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately, Airspace Docket No. 59-WA-331 is hereby modified as follows:

- a. Items No. 2 and No. 7 adding §§ 600.6490 and 601.6490 are deleted, and the following is substituted therefor.
 - 2. Section 600.6490 is added to read:
- § 600.6490. VOR Federal airway No. 490 (Utica, N.Y., to Ipswich, Mass.).

From the Utica, N.Y., VOR via the Cambridge, N.Y., VOR; Manchester, N.H., VOR, to the intersection of the Manchester VOR 117° and the Boston, Mass., VORTAC 014° radials.

- 7. Section 601.6490 is added to read:
- § 601.6490 VOR Federal airway No. 490 control areas (Utica, N.Y., to Ipswich, Mass.).

All of VOR Federal airway No. 490.

b. "Effective 0001 e.s.t., June 1, 1961" is deleted and "effective 0001 e.s.t., June 29, 1961", is substituted therefor. (Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on April 17, 1961.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3644; Filed, Apr. 21, 1961; 8:46 a.m.]

[Airspace Docket No. 61-NY-7]

PART 600-DESIGNATION OF FEDERAL AIRWAYS

PART 601-DESIGNATION OF CON-TROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CON-TROL AREAS

PART 608-SPECIAL USE AIRSPACE

Redesignation of Restricted Area/ Military Climb Corridor and Alteration of Federal Airway, Control Zone, and Control Area Extension

The purpose of these amendments to §§ 608.39, 600.107, 601.1047, and 601.2004 of the regulations of the administrator is to redesignate the Bangor, Maine (Dow AFB). Restricted Area/Military Climb Corridor R-3903 and alter the descriptions of Amber Federal airway No. 7 and the Bangor control zone and

control area extension.

Restricted Area R-3903 is presently designated as an area centered on the 312° True radial of the Dow AFB TACAN. The Department of the Air Force plans to decommission the Dow AFB TACAN and has requested redesignation of the Dow climb corridor based upon the 310° True radial of the Bangor, Maine, VORTAC. This change in radio facilities produces no significant move-ment of the climb corridor in that it rotates it approximately 1 mile in a counterclockwise direction and extends it approximately 1 mile northwest. The width of the outer extremity is reduced from 5 miles to 4.6 miles. Therefore, action is taken herein to redesignate R-3903 utilizing the Bangor VORTAC. Editorial changes to Amber 7 and the Bangor control zone and control area extension are included which do not assign additional airspace.

Since these amendments are minor in nature and impose no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after

publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following actions are taken:

1. In § 608.39 Maine, R-3903 Bangor, Maine (Dow AFB) Restricted Area/ Military Climb Corridor (26 F.R. 880) is amended to read:

R-3903 Bangor, Maine (Dow AFB), Restricted Area/Military Climb Corridor:

Boundaries. That area centered on the 310° radial of the Bangor VORTAC beginning 5.8 miles NW of the VORTAC and extending 32.8 miles NW of the VORTAC, having a width of 2 miles at the beginning and 4.6 miles at the outer extremity.

Designated altitudes

2.200' MSL to 15,200' MSL from 5.8 miles NW of the VORTAC to 6.8 miles NW of the VORTAC.

2.200' MSL to Flight Level 240 from 6.8

to 7.8 miles NW of the VORTAC. 2,200' MSL to Flight Level 270 from 7.8 to 10.8 miles NW of the VORTAC.
6,200' MSL to Flight Level 270 from 10.8

to 15.8 miles NW of the VORTAC 10,200' MSL to Flight Level 270 from 15.8

to 20.8 miles NW of the VORTAC. 15,200' MSL to Flight Level 270 from 20.8 to 25.8 miles NW of the VORTAC.

19,200' MSL to Flight Level 270 from 25.8 to 32.8 miles NW of the VORTAC.

Time of designation. Continuous Using agency. Dow AFB Approach Con-

2. In the text of \$600.107 (14 CFR 600.107, 25 F.R. 1988, 7977, 26 F.R. 1716) "The portions of this airway which lie within the geographic limits of, and between the designated altitudes of, the Camp A. P. Hill Restricted Area (R-40) and the Dahlgren (West) Restricted Area (R-38) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control." is deleted and "The portion of this airway which coincides with R-3903 shall be used only after obtaining prior approval from appropriate authority." is substituted therefor.

3. In the text of \$ 601.2004 (14 CFR 601.2004) add the following: "The portion of this control zone which coincides with R-3903 shall be used only after obtaining prior approval from appropriate

authority."

4. In the text of § 601.1047 (14 CFR 601.1047) add the following: "The portion of this control area extension which coincides with R-3903 shall be used only after obtaining prior approval from appropriate authority."

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

These amendments shall become effective 0001 e.s.t., June 29, 1961.

Issued in Washington, D.C., on April 17, 1961.

D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3645; Filed, Apr. 21, 1961; 8:46 a.m.]

[Airspace Docket No. 61-FW-2]

PART 601-DESIGNATION OF CON-TROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CON-TROL AREAS

Alteration of Control Zone

On February 3, 1961, a notice of proposed rule making was published in the FEDERAL REGISTER (26 F.R. 1066) stating that the Federal Aviation Agency proposed to alter the Knoxville, Tenn., control zone.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice. § 601.2151 (14 CFR 601.2151) is amended

§ 601.2151 Knoxville, Tenn., control zone.

Within a 5-mile radius of McGhee-Tyson Airport (latitude 35°48'42" N., longitude 83°59'35" W.); within 2 miles either side of the Knoxville ILS localizer SW course extending from the 5-mile radius zone to the OM and within 2 miles either side of the Knoxville ILS NE course extending from the 5-mile radius zone to the INT of the ILS NE course and the 135° radial of the Knoxville VOR.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

This amendment shall become effective 0001 e.s.t., June 29, 1961.

Issued in Washington, D.C., on April 17, 1961.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3641; Filed, Apr. 21, 1961; 8:45 a.m.]

[Airspace Docket No. 60-WA-145]

PART 601-DESIGNATION OF CON-TROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CON-TROL AREAS

Alteration of Control Zone

On September 21, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 9061) stating that the Federal Aviation Agency proposd to alter the Oxnard, Calif., control zone and designate a control zone

at Point Mugu, Calif.

The Department of the Air Force concurred in the proposal. However, the Department of the Navy objected to the designation of the control zone at Point Mugu because of the air traffic control procedures which would be employed. In light of the comments received, the Agency is only altering the Oxnard control zone herein and no action is taken to designate the Point Mugu control zone. Subsequent to publication of the Notice, a restricted area/military climb corridor has been designated at Oxnard AFB, Calif., effective May 4, 1961 (26 F.R. 2221). Therefore, the description of the control zone reflects the establishment of this climb corridor.

No other comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore. pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated herein and in the notice, § 601.2321 (14 CFR 601.2321) is amended to read:

§ 601.2321 Oxnard, Calif., control zone.

Within a 5-mile radius of Oxnard-Ventura County Airport (latitude 34°12'-05" N., longitude 119°12'15" W.), and within a 5-mile radius of Oxnard AFB (latitude 34°12'50" N., longitude 119°05'-15" W.). The portion of this control zone that coincides with R-2527 shall be used only after obtaining prior approval from appropriate authority.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

This amendment shall become effective 0001 e.s.t., June 29, 1961.

Issued in Washington, D.C., on April 17, 1961.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3640; Filed, Apr. 21, 1961; 8:45 a.m.]

[Airspace Docket No. 61-FW-28]

PART 608-SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to § 608.63 of the regulations of the Administrator is to change the using agency of the Corpus Christi, Tex., Restricted Area R-6301.

The Department of the Navy has requested that the using agency of R-6301 be changed from "Commanding Officer, NAS, Corpus Christi, Tex." to "Chief of Naval Air Advanced Training, NAS Corpus Christi, Tex.". This change will more accurately reflect the command exercising control over all naval air activities conducted within R-6301. Other changes, editorial in nature, are also made in the description of R-6301.

Since this amendment imposes no additional burden on the public, compliance with the notice, public procedure. and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the Corpus Christi, Tex., Restricted Area R-6301, in § 608.63 Texas (26 F.R. 886), is amended to read:

R-6301 Corpus Christi, Tex.:

Boundaries. Beginning at latitude 27°49′-20″ N., longitude 97°00′00″ W.; thence 3 nautical miles from and parallel to the shoreline to latitude 26°15'00" N., longitude 97°07′20′′ W.; to latitude 26°15′00′′ N., longitude 97°26′00′′ W.; to latitude 26°30′–30′′ N., longitude 97°31′30′′ W.; to latitude 26°31′30′′ N., longitude 97°27′30′′ W.; counterclockwise along the arc of a circle 3 miles terclockwise along the arc of a circle 3 miles in radius, centered at Port Mansfield Airport (latitude 26°33'35" N., longitude 97°-25'40" W.) to latitude 26°33'35" N., longitude 97°28'30" W.; to latitude 26°33'00" N., longitude 97°32'20" W.; to latitude 27°17'-30" N., longitude 97°48'30" W.; to latitude 27°11'' N., longitude 97°48'30" W.; to latitude 97°48'30" N., longitude 97°48'30" W.; to latitude 97°48'30" N., longitude 97°48'30" W.; to latitude 30" N., longitude 97°48'30" W.; to latitude 27°16'30" N., longitude 97°51'15" W.; to latitude 27°29'00" N., longitude 97°55'15" W.; to latitude 27°30'00" N., longitude 97°52'00" W.; counterclockwise along the arc of a circle 2 miles in radius centered at latitude 27°31′30′′ N., longitude 97°52′45′′ W.; to latitude 27°32′40′′ N., longitude 97°51′00′′ W.; to latitude 27°33′12′′ N., longitude 97°51′40′′ W.; to latitude 27°42′18′′ N., longitude 97°33′30′′ W.; counterclockwise along the arc of a circle 3 miles in radius centered at Cuddihy Field (latitude 27°43′-15′′ N., longitude 97°30′30′′ W.) to latitude 15" N., longitude 97"30"30" W.) to lautude 27°40'30" N., longitude 97°29'40" W.; to latitude 27°47'00" N., longitude 97°20'00" W.; to latitude 27°49'30" N., longitude 97°-07'30" W.; counterclockwise along the arc of a circle 3 miles in radius centered at Port Aransas Airport (latitude 27°49'45" N., longitude 97°04'30" W.) to latitude 27°49'-30" N., longitude 97°01'30" W.; to point of beginning.

Designated altitudes. Surface to flight

Time of designation. Continuous.

Using agency. Chief of Naval Air Advanced
Training, NAS Corpus Christi, Tex.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

This amendment shall become effective upon publication in the FEDERAL

Issued in Washington, D.C., on April 17, 1961.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 61-3646; Filed, Apr. 21, 1961; 8:46 a.m.]

Title 50—WILDLIFE AND **FISHERIES**

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wisconsin

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Wisconsin, is permitted only on the areas designated by signs as open to fishing. This open area, comprising 500 acres or 10 percent of the total water area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis 8, Minnesota. Sport fishing is subject to the following conditions:

(a) Species permitted to be taken: Northern pike, yellow perch, bullheads. and other minor species permitted under

State regulations.

(b) Open season: July 1, 1961, through September 15, 1961; daylight hours only.

(c) Daily creel limits:

Northern pike-5. Yellow perch and bullheads-No limit.

Creel limits for other minor species are as prescribed by State regulations.

(d) Methods of fishing:

1. No more than two lines or two poles with one line attached to each pole, and with one hook or bait on each line, may

be used for fishing, except that fishermen using only one line or one pole with one line attached thereto may use not more than two lures or two hooks.

2. No snag hook, snag line or snag pole may be used to take fish.

3. The use of boats, without motors, is permitted.

(e) Other provisions:

1. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33.

2. A Federal permit is not required to enter the public fishing area.

3. The provisions of this special regulation are effective to September 16, 1961.

> R. W. BURWELL, Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 17, 1961.

[F.R. Doc. 61-3649; Filed, Apr. 21, 1961; 8:46 a.m.]

Title 16—COMMERCIAL **PRACTICES**

Chapter I—Federal Trade Commission

[Docket 7565]

PART 13-PROHIBITED TRADE **PRACTICES**

American Ball Bearing Corp. et al.

Subpart—Discriminating in price under sec. 2, Clayton Act-Price discrimination under 2(a): § 13.700 Arbitrary or improper functional discounts; § 13.730 Customer classifications; § 13.755 Pooling orders of chain stores and buying groups.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 49 Stat. 1527; 15 U.S.C. 13) Cease and desist order, American Ball Bearing Corp (Brooklyn, N.Y.) et al., Docket 7565, December 8, 1960]

In the Matter of Leo L. Lowy, Individually, and Trading as American Ball Bearing Company; American Ball Bearing Corporation, a Corporation; and Al Parker, an Individual

Order requiring a Brooklyn manufacturer of a complete line of precision ball and roller bearings under the trade name "ABC", to cease discriminating in price in violation of section 2(a) of the Clayton Act by giving some customers greater discounts than others competing with them through its practice of charging individual jobbers 10% more than "dis-

tributors" and 20% more than members of buying groups it classified as "warehouse distributors".

The order to cease and desist is as follows:

It is ordered, That respondent Leo L. Lowy, individually and trading as American Ball Bearing Company, and as General Manager of American Ball Bearing Corporation, and respondent American Ball Bearing Corporation, their officers, representatives, agents and employees, directly or through any corporate or other device, in or in connection with the sale, for replacement purposes, of automotive bearings in commerce as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating directly or indirectly, in the price of such bearings, by selling to any purchaser at net prices higher than the net prices charged any other purchaser who competes in the resale or distribution of respondents' products with the purchaser paying the higher price.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Al Parker, an individual.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents Leo L. Lowy, individually and trading as American Ball Bearing Company, and American Ball Bearing Corporation, a corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 8, 1960.

By the Commission.

[SEAL]

ROBERT M. PARRISH Secretary.

[F.R. Doc. 61-3647; Filed, Apr. 21, 1961; 8:46 a.m.]

[Docket 8110 c.o.]

PART 13-PROHIBITED TRADE **PRACTICES**

Keith M. Merrick, Co. et al.

Subpart-Advertising falsely or misleadingly: § 13.130 Manufacture or preparation. Subpart-Using misleading name-Goods: § 13.2310 Manufacture or preparation.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 [Cease and desist order, Keith M. U.S.C. 45) Merrick Company, Sibley, Iowa, Docket 8110, December 7, 1960]

In the Matter of Keith M. Merrick and Loren Fleming, Individually and as Copartners Doing Business as Keith M. Merrick Company

Consent order requiring Sibley, Iowa. printers of sympathy cards by processes which presented a raised-letter effect but which differed from engraving both as to materials used and results obtained, to cease using the word "engraved" in describing the cards by such terms as "Plateless Engraved" and "Dri-Engraved."

The order to cease and desist is as follows:

It is ordered, That the respondents, Keith M. Merrick and Loren Fleming, individually and as copartners, doing business as Keith M. Merrick Company, or any other name, their representatives, agents and employees, directly or indirectly, through any corporate or other device, in connection with the offering for sale, sale and distribution of sympathy cards or other stationery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "engraved" or any of its variations, either alone or in conjunction with any other word or words, to designate, describe or refer to stationery products unless the respondents produce the stationery products so designated, described, or referred to by a process which consists essentially in the application of the stationery, under pressure, to the surface of an intaglio or other plate into which letters, words or designs have been etched or otherwise cut below the surface of the plate, and where, as a result of the pressure applied, the surface of the stationery is forced into the lines cut into the plate surface causing the ink in such lines to adhere to the paper on which the impression is to be made, producing letters, words or designs which are raised from the general plane of the stationery surface, in relief.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: December 7, 1960.

By the Commission.

ROBERT M. PARRISH, [SEAL] Secretary.

[F.R. Doc. 61-3648; Filed, Apr. 21, 1961; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

National Park Service [36 CFR Part 21]

HOT SPRINGS NATIONAL PARK, **ARKANSAS**

Examining Board for Technicians

Notice is hereby given that pursuant to authority issued under section 3, 20 Stat. 258, as amended, section 3, 26 Stat. 843, as amended, section 1-3, 39 Stat. 535, as amended, section 1, 41 Stat. 918, as amended, sections 1, 2, 67 Stat. 495, 496; 16 U.S.C. 1, 1b, 1c, 2, 3, 361, 363, 369, it is proposed to amend 36 CFR 21.15 as set forth below. The purpose of this amendment is to enlarge the membership of the Examining Board for Technicians so that an accelerated program may be put into effect, and so that the functions of this Board will not be too burdensome and time-consuming for any member in a given classification.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, National Park Service, Washington 25, D.C., within thirty days of the date of publication of this notice in the FEDERAL

Subparagraphs (1), (2), (3), and (4), of paragraph (a), and paragraph (c) of § 21.15 are amended by changing the present text to read as follows:

§ 21.15 Examining Board of Technicians.

(a)

- (1) Two registered physicians, to be nominated by the Federal Registration Board.
- (2) Two registered physical therapists-hydrotherapists.
 - (3) Two registered masseurs.
- (4) Two registered bath attendants, preferably head attendants.
- (c) Five members present shall constitute a quorum. Any member undergoing disciplinary action or in suspension from duty shall not remain a member of the board.

JOHN A. CARVER, Jr., Assistant Secretary of the Interior. APRIL 17, 1961.

[F.R. Doc. 61-3653; Filed, Apr. 21, 1961; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [7 CFR Part 68]

ROUGH RICE, BROWN RICE, AND MILLED RICE

U.S. Standards

Notice is hereby given that the U.S. Department of Agriculture is considering revisions of the United States Standards for Rough Rice (7 CFR 68.201 et seq.), for Brown Rice (7 CFR 68.251 et seq.) and for Milled Rice (7 CFR 68.301 et seq.) pursuant to the authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C., 1621 et seq.).

The revisions as hereinafter set forth

(1) Eliminate from the standards for Rough Rice, Brown Rice, and Milled Rice certain classes which are no longer in production, and add certain classes

which are in production.

(2) Provide that all classes except Mixed Rough Rice, Mixed Brown Rice, Mixed Milled Rice, Second Head Milled Rice, Screenings Milled Rice, and Brewers Milled Rice may contain not more than 10 percent of noncontrasting

(3) Provide in the standards for Rough Rice, Brown Rice, and Milled Rice that when kernels of parboiled rice are found in nonparboiled rice they shall be considered as damaged or heat-damaged kernels as the case may be since they are physically indistinguishable from such damaged kernels.

(4) Add definitions for "Broken ker-nels" and "Total milled rice" under "Terms Defined" in the standards for

Rough Rice.

(5) Eliminate the footnote with reference to rice of noncontrasting classes in the table for "Grades and grade requirements for all classes of Rough Rice" and add this factor in the table of grade requirements.

(6) Add a special grade for "Parboiled rough rice" to the "Special grades, special grade requirements and special grade designations for Rough Rice."

- (7) Add definitions for "4/64 round hole sieve," "5½/64 round hole sieve," "6/64 round hole sieve," "6½/64 round hole sieve," "5/64 round hole sieve," "No. 5 sizing plate," "Milling yield for broken brown rice," "Milled rice," "Second head milled rice," "Screenings milled rice," and "Brewers milled rice" "Screenings under "Terms Defined" in the standards for Brown Rice.
- (8) Redefine "Basis of determinations" and add "Method of determining broken kernels" to "Principles Governing Application of Standards" in the standards for Brown Rice.
- (9) Eliminate the footnotes with reference to rice of noncontrasting classes

and milled rice in the table for Grades and grade requirements for all classes of Brown Rice except Pearl Brown Rice and Calrose Brown Rice grown in California and add these factors to the table of grade requirements for these classes of Brown Rice.

(10) Eliminate the footnote with reference to milled rice in the table for Grades and grade requirements for Pearl Brown Rice and Calrose Brown Rice grown in California and add this factor and the factor of rice of noncontrasting classes to the table of grade requirements for these classes of Brown Rice.

(11) Add the grade U.S. No. 5 to all classes of Brown Rice to provide a satisfactory grade for Brown Rice which is

exported.

(12) Provide for a special grade for Parboiled brown rice in the Brown Rice Standards.

(13) Change the definition for the classes Second Head Milled Rice and Screenings Milled Rice to more nearly conform to the other classes of milled rice for the factor "broken kernels."
(14) Eliminate the footnote with

reference to "Rice of noncontrasting classes" in the table for Grades and grade requirements for all classes of Milled Rice except Pearl Milled Rice and Calrose Milled Rice and add this factor to

the table of grade requirements.
(15) Add "Rice of noncontrasting classes" as a grading factor to the table for grade requirements for Pearl Milled Rice and Calrose Milled Rice grown in

California.'

(16) Add a special grade for "Granulated Brewers Milled Rice" to the Special grades, special grade requirements, and special grade designations for Milled

These amendments also include a few minor editorial changes which are not listed above.

It is proposed to revise the United States Standards for Rough Rice to read as follows:

§ 68.201 Terms defined.

The following definitions shall apply for the purposes of the United States Standards for Rough Rice.

(a) Rough rice. Rough rice shall be rice which consists of 50 percent or more of kernels of rice from which the hulls have not been removed.

(b) Classes. (1) Rough rice shall be divided into the following classes:

Rexoro Rough Rice, including the variety known as Rexark; Patna Rough Rice;

Bluebonnet Rough Rice;

Toro Rough Rice;

Century Patna Rough Rice:

Blue Rose Rough Rice, including the varieties known as Improved Blue Rose, Greater Blue Rose, Kamrose, Arkrose, and Gulfrose;

Magnolia Rough Rice; Zenith Rough Rice: Calrose Rough Rice:

Nato Rough Rice; Pearl Rough Rice; and Mixed Rough Rice.

Except with respect to the class Mixed Rough Rice, each class shall contain more than 25.0 percent of whole kernels of rough rice of the designated class, and may contain not more than 10.0 percent of rice of contrasting classes, or not more than 10.0 percent of rice of noncontrast-

(2) Mixed Rough Rice shall be rough rice which contains more than 25.0 percent of whole kernels of rough rice and more than 10.0 percent of rice of contrasting classes or more than 10.0 percent of rice of noncontrasting classes.

(3) Rough rice that is not specifically classified in this Subpart shall be classified according to the commonly accepted

name of such rough rice.

(c) Grades. Grades shall be the numerical grades, Sample grade, and special grades provided for in § 68.203.

(d) Rice of contrasting classes. Rice of contrasting classes shall be rice of other classes than the class designated, in which the size, length, or shape of the kernels differs distinctly from these characteristics of the kernels of the class designated.

(e) Rice of noncontrasting classes. Rice of noncontrasting classes shall be rice of other classes than the class designated, in which the size, length, and shape of the kernels differ only slightly from these characteristics of the kernels of the class designated.

(f) Chalky kernels. Chalky kernels shall be kernels and pieces of kernels of rice of which one-half or more of each is

chalky.

(g) Broken kernels. Broken kernels shall be pieces of kernels of rice which are less than three-fourths of the length of whole kernels, and split kernels of rice.

(h) Red rice. Red rice shall be kernels and pieces of kernels of rice which are distinctly red in color or which have any appreciable amount of red bran

thereon.

(i) Damaged kernels. Damaged kernels shall be kernels and pieces of kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means. Kernels and pieces of kernels of parboiled rice when found in nonparboiled rice shall be considered as damaged kernels.

(j) Heat-damaged kernels. Heatdamaged kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat. Kernels and pieces of kernels of dark parboiled rice when found in nonparboiled rice shall be considered as heat-

damaged kernels.

(k) Seeds. Seeds shall be unhulled kernels of rice; and grains, kernels, or seeds, either whole or broken, of any plant other than rice.

(1) Objectionable seeds. Objectionable seeds shall be all seeds except unhulled kernels of rice and seeds of Echinochloa crusgalli commonly known as barnyard grass, watergrass, and Japanese millet.

(m) Head rice. Head rice shall be that product of rice milling which, after the usual screening or sizing, consists

of whole kernels of milled rice and not more than 4.0 percent of broken kernels of milled rice which are not removed in such screening or sizing.

(n) Total milled rice. Total milled rice shall be the quantity of whole and broken kernels of milled rice obtained in

determining milling yield. (o) Milling yield. Milling yield of

rough rice shall be the estimate of the quantity of head rice and of total milled rice that can be produced from a unit

of rough rice.

(p) Removable foreign material (dockage). Removable for eign material (dockage) shall be (1) all matter other than rice which can be removed readily from the rough rice by the use of appropriate sieves and cleaning devices, and (2) underdeveloped, shriveled, and small pieces of kernels of rough rice which are removed in properly separating the foreign material and cannot be recovered

by properly rescreening or recleaning.

(q) Test weight per bushel. Test weight per bushel shall be the weight per Winchester bushel as determined by the method prescribed by the United States Department of Agriculture, as described in Circular No. 921 issued June 1953, or as determined by any method which gives equivalent results.

§ 68.202 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of rough rice:

(a) Basis of determinations. Each determination of class, seeds, objectionable seeds, damaged kernels, heat-damaged kernels, red rice, chalky, kernels,

broken kernels, rice of contrasting classes, rice of noncontrasting classes, and color shall be on the basis of head rice. All other determinations shall be on the basis of the rough rice as a whole.

(b) Percentages. Percentages shall be determined upon the basis of weight The milling yield shall be stated in terms of whole and half percents. A fraction of a percent when equal to or greater than one-half shall be stated as one-half percent and when less than one-half shall be disregarded.

(c) Moisture. Moisture shall be ascertained by the air-oven method for rice prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcements No. 147 (1959 Revision), of the Agricultural Marketing Service, or ascertained by any method which gives equivalent

results.

(d) Determination of milling yield. The determination of milling yield of rough rice shall be made with equipment and methods prescribed by the United States Department of Agriculture. Head rice and total milled rice shall be determined by the use of sizing plates and sieves in accordance with the method prescribed by the United States Department of Agriculture or by any device and method which gives equivalent results.

§ 68.203 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under this subpart:

(a) Grades and grade requirements for all classes of rough rice. (See also paragraph (c) of this section.)

	Maximum limits of—								
Grade ¹		heat-damaged ernels	Red rice		Rice of	Rice of			
	Total (singly or com- bined)	Heat-damaged kernels and objectionable seeds (singly or combined)	(singly or combined)	con- trasting classes ³	noncon- trasting classes ³				
U.S. No. 1 U.S. No. 2 U.S. No. 3 U.S. No. 4 U.S. No. 5 U.S. No. 6 U.S. Sample grade	7 15 30 75 U.S. sampl any of th more tha or which	Number in 500 grams 2 5 10 30 re grade shall be re grades from U. n 18.0 percent of has any commer istinctly low qua	S. No. 1 to U moisture; or cially objecti	.S. No. 6, inc	clusive; or wh usty, or sour	or heating;			

Color requirements: U.S. No. 1 shall be white or creamy. U.S. No. 2 may be slightly gray. U.S. No. 3 may be the gray. U.S. No. 4 may be gray or slightly rosy. U.S. No. 5 may be dark gray or rosy. U.S. No. 6 may be dark

1 Color requirements. Co. be a consistently rosy. U.S. No. 5 may be dark gray of rosy.

2 The rice in grade U.S. No. 1 of the class Pearl Rough Rice may contain not more than 2.0 percent, in grade U.S. No. 2 not more than 4.0 percent, in grade U.S. No. 3 not more than 6.0 percent, and in grade U.S. No. 4 not more than 8.0 percent of chalky kernels.

3 These limits do not apply to the class Mixed Rough Rice.

4 The rice in grade U.S. No. 6 may contain not more than 6.0 percent of damaged kernels.

(b) Grade designations for all classes of rough rice. The grade designation for all classes of rough rice shall include, in the order named, the letters "U.S." the number of the grade or the words "Sample grade," as the case may be; the name of the class; and the name of each applicable special grade; and, in the case of rough rice which contains not more than 18.0 percent of moisture, there

shall be added to the grade designation a statement of the milling yield; provided that the word "California" may be added to the grade designation, preceding the name of the class, when it is determined that the rice was grown in the State of California. In the case of Mixed Rough Rice the grade designation shall also include, following the name of the class, the name and approximate percentage of the predominant class and of each contrasting class and of each noncontrasting class of rough rice, if any, contained in the mixture.

(c) Special grades, special grade requirements, and special grade designations for rough rice—(1) Parboiled rough rice-(i) Requirements. Parboiled rough rice shall be rough rice in which the starch in the kernels has been gelatinized by soaking, steaming, and drying the rice before the hulls are removed. Parboiled rough rice grades U.S. No. 1 to U.S. No. 6, inclusive, may contain not more than 10.0 percent of kernels of parboiled rice that have ungelatinized areas; and parboiled rough rice in grades U.S. No. 1 and U.S. No. 2 may contain not more than 0.1 percent, in grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and in grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled rough rice.

(ii) Grade designation. Parboiled rough rice shall be graded and designated according to the special grade requirements for parboiled rough rice and to the grade requirements of the standards otherwise applicable to such rough rice, except that the factors of "chalky kernels" shall be disregarded. and there shall be added to and made a part of the grade designation the words "Parboiled Light" if the rough rice is not colored or is slightly colored by the parboiling treatment, the word "Parboiled" if the rough rice is distinctly but not materially colored by the parboiling treatment, and the words "Parboiled Dark" if the rough rice is materially colored by the parboiling treatment.

(2) Damp rough rice—(i) Requirements. Damp rough rice shall be rough rice which contains more than 14.0 percent but not more than 18.0 percent of

moisture.

(ii) Grade designation. Damp rough rice shall be graded and designated according to the grade requirements of the standards otherwise applicable to such rough rice, and there shall be added to and made a part of the grade designation the word "Damp."

(3) Weevily rough rice—(i) Requirements. Weevily rough rice shall be rough rice which is infested with live weevils or other live insects injurious to

stored rice.

(ii) Grade designation. Weevily rough rice shall be graded and designated according to the grade requirements of the standards otherwise applicable to such rough rice and there shall be added to and made a part of the grade designation the word "Weevily."

It is proposed to revise the United States Standards for Brown Rice to read as follows:

§ 68.251 Terms defined.

The following definitions shall apply for the purposes of the United States Standards for Brown Rice:

- (a) Brown Rice. Brown rice shall be rice which consists of more than 50.0 percent of kernels of rice from which the hulls only have been removed.
- (b) Classes. (1) Brown rice shall be divided into the following classes:

Rexoro Brown Rice, including the variety known as Rexark;

Patna Brown Rice; Bluebonnet Brown Rice; Toro Brown Rice;

Century Patna Brown Rice;

Blue Rose Brown Rice, including the varieties known as Improved Blue Rose, Greater Blue Rose, Kamrose, Arkrose, and Gulfrose;

Magnolia Brown Rice; Zenith Brown Rice; Calrose Brown Rice; Nato Brown Rice; Pearl Brown Rice; and Mixed Brown Rice.

Except with respect to the class Mixed Brown Rice, each class shall contain more than 25.0 percent of whole kernels of brown rice of the designated class, and may contain not more than 10.0 percent of rice of contrasting classes or not more than 10.0 percent of rice of noncontrasting classes.

(2) Mixed Brown Rice shall be brown rice which contains more than 25.0 percent of whole kernels of brown rice and more than 10.0 percent of rice of contrasting classes or more than 10.0 percent of rice of noncontrasting classes.

(3) Brown rice that is not specifically classified in this Subpart shall be classified according to the commonly accepted name of such brown rice.

(c) Grades. Grades shall be numerical grades, Sample grades, and Special

grades provided for in § 68.253.

(d) Rice of contrasting classes. Rice of contrasting classes shall be rice of other classes than the class designated, in which the size, length, or shape of the kernels differs distinctly from these characteristics of the kernels of the class designated.

(e) Rice of noncontrasting classes. Rice of noncontrasting classes shall be rice of other classes than the class designated, in which the size, length, and shape of kernels differ only slightly from these characteristics of the kernels of the class designated.

(f) Chalky kernels. Chalky kernels shall be kernels and pieces of kernels of rice of which one-half or more of each

is chalky.

(g) Broken kernels. Broken kernels shall be pieces of kernels of rice which are less than three-fourths of the length of whole kernels, and split kernels of

(h) Red rice. Red rice shall be kernels and pieces of kernels of rice which are distinctly red in color or on which

the bran is red.

(i) Damaged kernels. Damaged kernels shall be kernels and pieces of kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means. Kernels and pieces of kernels of parboiled rice when found in nonparboiled rice shall be considered as damaged kernels.

(j) Heat-damaged kernels. Heat-damaged kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat. Kernels and pieces of kernels of dark parboiled rice when found in nonparboiled rice shall be considered as heat-damaged kernels.

(k) Seeds. Seeds shall be unhulled kernels of rice and grains, kernels, or seeds, either whole or broken, of any plant other than rice.

(1) Objectionable seeds. Objectionable seeds shall be all seeds except unhulled kernels of rice and seeds of Echinochloa crusgalli commonly known as barnyard grass, watergrass, and

Japanese millet.

(m) Foreign material. Foreign material shall be all matter other than rice and seeds.

(n) 4/64 round hole sieve. A 4/64 round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0625 (4/64) inch in diameter which are $\frac{1}{2}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent

(0) $5\frac{1}{2}/64$ round hole sieve. A $5\frac{1}{2}/64$ round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0859 $(5\frac{1}{2}/64)$ inch in diameter which are 9/64 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent

rows.

(p) 6/64 round hole sieve. A 6/64 round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0937 ($\%_{44}$) inch in diameter which are $\%_{32}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(q) $6\frac{1}{2}/64$ round hole sieve. A $6\frac{1}{2}/64$ round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.1015 $(6\frac{1}{2}/64)$ inch in diameter which are $\frac{5}{32}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent

(r) No. 5 sizing plate. A No. 5 sizing plate shall be a laminated metal plate 0.142 inch thick, with a top lamina 0.051 inch thick perforated with round holes 0.0781 (%4) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

(s) No. 6 sizing plate. A No. 6 sizing plate shall be a laminated metal plate 0.142 inch thick with a top lamina 0.051 inch thick perforated with round holes 0.0937 (%4) inch in diameter which are 5%2 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

(t) Head rice. Head rice shall be that product of rice milling which, after the usual screening or sizing, consists of whole kernels of milled rice and not more than 4.0 percent of broken kernels of milled rice which are not removed in

such screening or sizing.

(u) Milling yield. Milling yield of brown rice shall be the estimate of the quantity of head rice and of total milled rice that can be produced from a unit of brown rice.

(v) Milling yield of broken brown rice. Milling yield of broken brown rice shall be the estimate of the quantity of second head milled rice, screenings milled rice, and brewers milled rice that can be produced from a unit of broken brown rice.

(w) Milled rice. Milled rice shall be kernels and pieces of kernels of rice from which the hulls and practically all of the germs and the bran layers have been removed.

(x) Second head milled rice. Second head milled rice shall consist of:

(1) the large broken kernels after milling the broken brown rice from all classes of brown rice except Pearl Brown Rice and Calrose Brown Rice grown in California, with not more than 25.0 percent of whole kernels, not more than 7.0 percent of broken kernels that can be removed readily with a No. 6 sizing plate, not more than 0.2 percent of broken kernels that can be removed readily with a No. 5 sizing plate, and not more than 0.02 percent of broken kernels that will pass readily through a 4/64 round hole sieve, or

(2) the large broken kernels after milling the broken brown rice from Pearl Brown Rice and Calrose Brown Rice grown in California, with not more than 25.0 percent of whole kernels, not more than 50.0 percent of broken kernels that will pass readily through a 6½/64 round hole sieve and not more than 10.0 percent of broken kernels that will pass readily through a 6/64 round hole sieve.

(y) Screenings milled rice. Screenings milled rice shall consist of:

- (1) The medium broken kernels after milling the broken brown rice from all classes of brown rice except Pearl Brown Rice and Calrose Brown Rice grown in California, with not more than 25.0 percent of whole kernels, not more than 50.0 percent of broken kernels that can be removed readily by a No. 6 sizing plate, not more than 10.0 percent of broken kernels that can be removed readily with a No. 5 sizing plate and not more than 0.2 percent of broken kernels that will pass readily through a 4/64 round hole sieve, or
- (2) The medium broken kernels after milling the broken brown rice from the classes Pearl Brown Rice and Calrose Brown Rice grown in California, with not more than 25.0 percent of whole kernels, and which does not meet the broken kernel size requirements given in paragraph (x) (2) of this section for second head milled rice, and which contains not more than 15.0 percent of broken kernels that will pass readily through a 5½/64 round hole sieve.
- (z) Brewers milled rice. Brewers milled rice shall consist of the broken kernels after milling the broken brown rice, with not more than 25.0 percent of whole kernels and which does not meet the broken kernel size requirements for second head milled rice or screenings milled rice.

§ 68.252 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of brown rice:

(a) Basis of determinations. All determinations shall be on the basis of the brown rice as a whole, except that second head milled rice, screenings milled

rice, and brewers milled rice in the determination of milling yield of broken brown rice shall be on the basis of the total broken brown rice.

(b) Percentages. Percentages shall be determined upon the basis of weight. The milling yield shall be stated in terms of whole and half percents. A fraction of a percent when equal to or greater than one-half shall be stated as one-half percent and when less than one-half shall be disregarded.

(c) Moisture. Moisture shall be ascertained by the air-oven method for rice prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcements No. 147 (1959 Revision), of the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) Determination of milling yield. The determination of milling yield of brown rice shall be made with equipment and methods prescribed by the United States Department of Agriculture. Head rice and total milled rice shall be de-

termined by the use of sizing plates or sieves in accordance with the method prescribed by the United States Department of Agriculture or by any device and method which gives equivalent results.

(e) Method of determining broken kernels. Broken kernels of second head milled rice, screenings milled rice, and brewers milled rice obtained by milling broken brown rice shall be determined by the use of sizing plates and sieves in accordance with the methods prescribed by the United States Department of Agriculture or by any device or method which gives equivalent results.

§ 68.253 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under this subpart:

(a) Grades and grade requirements for all classes of brown rice except Pearl Brown Rice and Calrose Brown Rice grown in California. (See also paragraph (d) of this section.)

				. 1	L aximum	limits of				
Grade	Seeds and Heat-damaged kernels		Red rice and damaged	Chalky	Broken kernels		Rice of	Rice of noncon-		
Total Heat- Objectionable of	kernels (singly or com- bined)	kernels	Total	Removed by No. 6 sizing plate	trast- ing classes ¹	trast- ing classes ¹	Milled rice			
U.S. No. 1 U.S. No. 2 U.S. No. 3 U.S. No. 4 U.S. No. 5 U.S. Sample	Number in 500 grams 25 50 75 100 300	Number in 500 grams 1 2 4 8 15	Number in 500 grams 2 10 20 35 50	Percent 1.0 2.0 4.0 8.0 15.0	Percent 2.0 4.0 6.0 8.0 15.0	Percent 5.0 10.0 15.0 25.0 35.0	Percent 1.0 2.0 3.0 4.0 6.0	Percent 1. 0 2. 0 5. 0 10. 0 10. 0	Percent 5. 0 5. 0 5. 0 10. 0 10. 0	Percent 1. 0 3. 0 10. 0 10. 0 10. 0

U.S. Sample grade shall be brown rice which does not meet the requirements for any of the grades from U.S. No. 1 to U.S. No. 5, inclusive; or which contains more than 14.0 percent of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which contains more than 0.1 percent of foreign material; or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.

(b) Grades and grade requirements for Pearl Brown Rice and Calrose Brown Rice grown in California. (See also paragraph (d) of this section.)

					100000						
7				1	Maximum	m limits of—					
Grade	Seeds and heat-damaged kernels			Red rice and dam-		Broken kernels		Rice of	Rice of		
	Total (singly or com- bined)	Heat- dam- aged kernels	Objection- able seeds	aged kernels (singly or com- bined)	Chalky kernels	Total	Through 6½/64 sieve	trast- ing classes 1	noncon- trast- ing classes 1	Milled rice	
U.S. No. 1	grades of moi tionab contain	from U.S sture; or le foreign ns live or	No. 1 to which is r odor; or dead wee	U.S. No nusty or a which con	e which 5. 5, inclu- sour, or h tains morner insect	sive; or reating; of than 0.	Percent 1.0 2.0 3.0 4.0 6.0 meet the which conor which 1 percent	tains mor has any o of foreign	e than 14 commercia material;	0 percent ally objec- or which	

¹ These limits do not apply to the class Mixed Brown Rice.

(c) Grade designations for all classes of brown rice. The grade designations for all classes of brown rice shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade" as the case may be; the

name of the class; and the name of each applicable special grade; and in the case of brown rice which contains not more than 18.0 percent of moisture, there may be added to the grade designation a statement of the milling yield; provided

¹ These limits do not apply to the class Mixed Brown Rice.

that the word "California" may be added to the grade designation, preceding the name of the class, when it is determined that the rice was grown in the State of California. In the case of Mixed Brown Rice the grade designation shall include also following the name of the class, the name and approximate percentage of the predominant class and of each contrasting class of brown rice, if any, contained in the mixture.

(d) Special grade, special grade requirements, and special grade designations for brown rice—(1) Parboiled rice-(i) Requirements. Parboiled brown rice shall be brown rice in which the starch in the kernels has been gelatinized by soaking, steaming, and drying the rice before the hulls are removed. Parboiled brown rice in grades U.S. Nos. 1 to 5, inclusive, may contain not more than 10.0 percent of kernels of parboiled brown rice that have ungelatinized areas; and parboiled brown rice in grades U.S. No. 1 and U.S. No. 2 may contain not more than 0.1 percent, in grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent and in grade U.S. No. 5 not more than 0.5 percent of nonparboiled brown rice.

(ii) Grade designation. Parboiled brown rice shall be graded and designated according to the special grade requirements for parboiled brown rice and to the grade requirements of the standards otherwise applicable to such brown rice, except that the factor "chalky kernels" shall be disregarded, and there shall be added to and made a part of the grade designation the word "Parboiled."

It is proposed to revise the United States Standards for Milled Rice to read as follows:

§ 68.301 Terms defined.

The following definitions shall apply for the purposes of the United States Standards for Milled Rice:

(a) Milled rice. Milled rice shall be whole or broken kernels of rice from which the hulls and practically all of the germs and bran layers have been removed and which contains not more than 10.0 percent of seeds or foreign material either singly or combined, except that in the special grade for unpolished milled rice only the outer bran layers and a part of the germs but not the inner bran layers, shall have been removed from the kernels.

(b) Classes. (1) Milled rice shall be divided into the following classes:

Rexoro Milled Rice, including the variety known as Rexark;

Rhown as Rexark,
Patna Milled Rice;
Bluebonnet Milled Rice;
Toro Milled Rice;
Century Patna Milled Rice;

Blue Rose Milled Rice, including the varieties known as Improved Blue Rose, Greater Blue Rose, Kamrose, Arkrose, and Gulfrose:

Magnolia Milled Rice;
Zenith Milled Rice;
Calrose Milled Rice;
Nato Milled Rice;
Pearl Milled Rice;
Mixed Milled Rice;
Second Head Milled Rice;
Screenings Milled Rice; and
Brewers Milled Rice.

Except with respect to the classes Mixed Milled Rice, Second Head Milled Rice, Screenings Milled Rice, and Brewers Milled Rice, each class shall contain more than 25.0 percent of whole kernels of milled rice of the designated class, and may contain not more than 10.0 percent of milled rice of contrasting classes, or not more than 10.0 percent of milled rice of noncontrasting classes.

(2) Mixed Milled Rice shall be milled rice which contains more than 25.0 percent of whole kernels of milled rice and more than 10.0 percent of rice of contrasting classes or more than 10.0 percent of rice of noncontrasting classes.

(3) Second Head Milled Rice shall consist of:

(i) The large broken kernels from all classes of milled rice except Pearl Milled Rice and Calrose Milled Rice grown in California with not more than 25.0 percent of whole kernels, not more than 7.0 percent of broken kernels that can be removed readily with a No. 6 sizing plate, not more than 0.2 percent of broken kernels that can be removed readily with a No. 5 sizing plate, and not more than 0.02 percent that will pass readily through a 4/64 round hole sieve; or

(ii) The large broken kernels from the classes Pearl Milled Rice and Calrose Milled Rice grown in California, with not more than 25.0 percent of whole kernels, not more than 50.0 percent of broken kernels that will pass readily through a $6\frac{1}{2}/64$ round hole sieve, and not more than 10.0 percent of broken kernels that will pass readily through a 6/64 round hole sieve.

(4) Screenings Milled Rice shall consist of:

(i) The medium broken kernels from all classes of milled rice except Pearl Milled Rice and Calrose Milled Rice grown in California, with not more than 25.0 percent of whole kernels, not more than 50.0 percent of broken kernels that can be removed readily with a No. 6 sizing plate, not more than 10.0 percent of broken kernels that can be removed readily with a No. 5 sizing plate, and not more than 0.2 percent that will pass readily through a 4/64 round hole sieve, or

(ii) The medium broken kernels from the classes Pearl Milled Rice and Calrose Milled Rice grown in California, with not more than 25.0 percent of whole kernels; and which does not meet the kernel-size requirements given in subparagraph (3) (ii) of this paragraph for Second Head Milled Rice, and which contains not more than 15.0 percent of broken kernels that will pass readily through a $5\frac{1}{2}/64$ round hole sieve.

(5) Brewers Milled Rice shall consist of broken kernels with not more than 25.0 percent of whole kernels and which does not meet the kernel-size requirements for the class Second Head Milled Rice or Screenings Milled Rice.

(6) Milled rice that is not specifically classified in this Subpart shall be classified according to the commonly accepted name of such milled rice.

(c) Grades. Grades shall be the numerical grades, Sample grade, and special grades provided for in § 68.303.

(d) Rice of contrasting classes. Rice of contrasting classes shall be other classes of rice than the class designated, in which the size, length, or shape of the kernels differs distinctly from these characteristics of the kernels of the class designated.

(e) Rice of noncontrasting classes. Rice of noncontrasting classes shall be other classes of rice than the class designated, in which the size, length, and shape of the kernels differ only slightly from these characteristics of the kernels designated.

(f) Chalky kernels. Chalky kernels shall be kernels and pieces of kernels of rice of which one-half or more of each is chalky.

(g) Broken kernels. Broken kernels shall be pieces of kernels of rice which are less than three-fourths of the length of whole kernels, and split kernels of rice.

(h) Red rice. Red rice shall be kernels and pieces of kernels of rice which are distinctly red in color or which have an appreciable amount of red bran thereon.

(i) Damaged kernels. Damaged kernels shall be kernels and pieces of kernels of rice which are distinctly discolored or damaged by water, insects, heat, or any other means. Kernels and pieces of kernels of parboiled rice when found in nonparboiled rice shall be considered as damaged kernels.

(j) Heat-damaged kernels. Heat-damaged kernels shall be kernels and pieces of kernels of rice which are materially discolored and damaged by heat. Kernels and pieces of kernels of dark parboiled rice when found in nonparboiled rice shall be considered as heat-damaged kernels.

(k) Seeds. Seeds shall be unhulled kernels of rice; and grains, kernels, or seeds, either whole or broken, of any plant other than rice

plant other than rice.

(1) Objectionable seeds. Objectionable seeds shall be all seeds except unhulled kernels of rice and seeds of Echinochloa crusgalli commonly known as barnyard grass, watergrass, and Japanese millet.

(m) Foreign material. Foreign material shall be all matter other than rice and seeds.

(n) $6\frac{1}{2}/64$ round hole sieve. A $6\frac{1}{2}/64$ round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.1015 $(6\frac{1}{2}/64)$ inch in diameter which are $\frac{5}{32}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(o) 6/64 round hole sieve. A 6/64 round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0938 ($\%_4$) inch in diameter which are $\%_2$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(p) $5\frac{1}{2}/64$ round hole sieve. A $5\frac{1}{2}/64$ round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0859 $(5\frac{1}{2}/64)$ inch in diameter which are $\frac{9}{64}$ inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(q) 5/64 round hole sieve. A 5/64 round hole sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0781 (5/64) inch in diameter which are 5/32 inch from center to center. The perforations of each row shall be staggered in relation to the adjacent rows.

(r) 4/64 sieve. A 4/64 sieve shall be a metal sieve 0.0319 inch thick perforated with round holes 0.0625 (464) inch in diameter which are 1/8 inch from center to center. The perforations of each row shall be staggered in relation to the

adjacent rows.

A 21/2/64 sieve shall (s) $2\frac{1}{2}/64$ sieve. be a metal sieve 0.0319 inch thick perforated with round holes 0.0391 $(2\frac{1}{2}/64)$ inch in diameter which are 0.075 inch from center to center. The perforations of each row shall be staggered in relation

to the adjacent rows.

(t) No. 5 sizing plate. A No. 5 sizing plate shall be a laminated metal plate 0.142 inch thick, with a top lamina 0.051 inch thick perforated with round holes 0.0781 (5/64) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without The perforations of each perforations. row in the top lamina shall be staggered in relation to the adjacent rows.

(u) No. 6 sizing plate. A No. 6 sizing plate shall be a laminated metal plate 0.142 inch thick with a top lamina 0.051 inch thick perforated with round holes 0.0937 (%4) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

(v) No. 7 sizing plate. A No. 7 sizing plate shall be a laminated metal plate 0.142 inch thick, with a top lamina 0.051 inch thick perforated with round holes 0.1094 (7/64) inch in diameter which are 5/32 inch from center to center, and a bottom lamina 0.091 inch thick without perforations. The perforations of each row in the top lamina shall be staggered in relation to the adjacent rows.

§ 68.302 Principles governing application of standards.

The following principles shall apply in the determination of the classes and grades of milled rice:

(a) Basis of determinations. All determinations shall be upon the basis of the milled rice as a whole.

(b) Percentages. Percentages shall be determined upon the basis of weight.

(c) Moisture. Moisture shall be ascertained by the air-oven method for rice prescribed by the United States Department of Agriculture as described in Service and Regulatory Announcements No. 147 (1959 Revision), of the Agricultural Marketing Service, or ascertained by any method which gives equivalent results.

(d) Method of determining broken kernels. Broken kernels of various sizes shall be determined by the use of sizing plates and sieves in accordance with the method prescribed by the United States Department of Agriculture or by any de-

vice and method which gives equivalent results.

§ 68.303 Grades, grade requirements, and grade designations.

The following grades, grade requirements, and grade designations are applicable under this subpart:

(a) Grades and grade requirements for all classes of milled rice, except Pearl Milled Rice and Calrose Milled Rice grown in California, Second Head Milled. Rice, Screenings Milled Rice, and Brewers Milled Rice. (See also paragraph (g) of this section.)

ASSOCIATED		Maximum limits of—								
	Seeds and heat- damaged kernels (singly or combined)		Red rice			oken kerne				
Grade ¹	Total	Heat- damaged kernels and ob- jection- able seeds (singly or com- bined)	and damaged C	Chalky kernels ²	Total	Removed by No. 6 sizing plate	Removed by No. 5 sizing plate	Rice of contrast- ing classes 3	Rice of noncon- trasting classes 3	
U.S. No. 1	ments than 18 mercia materi	for any of to 5.0 percent	the grades of moistur onable fore h contains	flled rice of from U.S. e; or which sign odor; live or de	any of the No. 1 to U is musty, or which od weevils	se classes v.S. No. 6, in or sour, or contains m or other in	heating; of the than (r which con r which ha 0.1 percent	s any com- of foreign	

¹ Color and milling requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray, and shall be reasonably well milled. U.S. No. 4 may be gray or slightly rosy, and shall be reasonably well milled. U.S. No. 6 may be dark gray or rosy, and shall be reasonably well milled. U.S. No. 6 may be dark gray or rosy, and shall be reasonably well milled.

² Milled rice in grade U.S. No. 1 of the class Pearl Milled Rice may contain not more than 2.0 percent, in grade U.S. No. 2 not more than 4.0 percent, in grade U.S. No. 3 not more than 6.0 percent, and in grade U.S. No. 4 not more than 8.0 percent of chalky kernels.

³ These limits do not apply to the class Mixed Milled Rice.

⁴ Milled rice in grade U.S. No. 5 of the special grade unpolished milled rice may contain not more than 10 percent of Red rice and damaged kernels, either singly or combined, but in any case not more than 6 percent of damaged kernels.

Milled rice in grade U.S. No. 6 may contain not more than 6.0 percent of damaged kernels.

(b) Grades and grade requirements for Pearl Milled Rice and Calrose Milled

Rice grown in California. (See also paragraph (g) of this section.)

The Course Course	TO OR		Ma	ximum lin	nits of—			
Grade ¹		l heat-damaged (singly or com-	Red rice and damaged		Broken kernels		Rice of	Rice of
Grade '	Total	Heat-damaged kernels and objectionable seeds (singly or combined)	kernels (singly of com- bined)	Chalky kernels ²	Total	Through 6/64 sieve	trasting	noncon- trasting classes 3
U.S. No. 1 U.S. No. 2. U.S. No. 3 U.S. No. 4. U.S. No. 5 U.S. No. 6 U.S. Sample grade	7 15 30 75 U.S. San require contain which	Number in 500 grams 1 2 5 10 30 nple grade shall ments for any o is more than 15.4 has any commencent of foreign mebbing, or insee	f the grade o percent or reially object paterial: or	f moisture; ctionable f which con	of these of the or which foreign odo tains live of	is musty, or; or which	or sour, or contains evils or oth	heating; or more than her insects,

l Color and milling requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray, and shall be reasonably well milled. U.S. No. 4 may be gray or slightly rosy, and shall be reasonably well milled. U.S. No. 6 may be dark gray or rosy, and shall be reasonably well milled. U.S. No. 6 may be dark gray or rosy, and shall be reasonably well milled. 2 The milled rice in grade U.S. No. 1 of the class Calrose Milled Rice may contain not more than 1.0 percent, in grade U.S. No. 2 not more than 2.0 percent, in grade U.S. No. 3 not more than 4.0 percent, and in grade U.S. No. 4 not more than 6.0 percent of chalky kernels.

3 These limits do not apply to the class Mixed Milled Rice.

4 The milled rice in grade U.S. No. 5 of the special grade Unpolished Milled Rice may contain not more than 10 percent of Red rice and damaged kernels, either singly or combined, but in any case not more than 6 percent of damaged kernels.

5 The milled rice in grade U.S. No. 6 may contain not more than 6.0 percent of damaged kernels.

(c) Grades and grade requirements for the class Second Head Milled Rice. (See also paragraph (g) of this section.)

		Maximum	limits of—		
	Seeds and heat-	damaged kernels			
Grade ¹	Total (singly or combined)	Heat-damaged kernels and objectionable seeds (singly or combined)	Red rice and damaged ker- nels (singly or combined)	Chalky kernels	
U.S. No. 1. U.S. No. 2 U.S. No. 3 U.S. No. 4 U.S. No. 5 U.S. Sample grade	U.S. Sample growth to U.S. No. percent of me which has a which contain which contains.	Number in 500 grams 5 10 15 25 40 rade shall be mirequirements for 5, inclusive; or which ny commercially ns more than 0, ins live or dead assect refuse; or w	any of the grades which contains is musty, or sou objectionable percent of fore weevils or othe	from U.S. No. 1 more than 15.0 r, or heating; or foreign odor; or ign material; or r insects, insect	

¹ Color and milling requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray and shall be well milled. U.S. No. 3 may be light gray, and shall be reasonably well milled. U.S. No. 4 may be gray or slightly rosy, and shall be reasonably well milled. U.S. No. 5 may be dark gray or rosy, and shall be reasonably well milled.

(d) Grades and grade requirements for the class Screenings Milled Rice. (See also paragraph (g) of this section.) (e) Grades and grade requirements for the class Brewers Milled Rice. (See also paragraph (g) of this section.)

	Max	imum limits	of—
Grade 1	Se	eeds	Chalky
	Total	Objection- able seeds	kernels
U.S. No. 1	milled does in ments from U inclusive more moistum or sour has an tionable has a tremely which expercent which weevils insect use; or	Number in 500 grams 20 50 90 140 200 mple grade rice of this cc ot meet the for any of the for any of than 15.0 pre; or which in the formal of foreign odor badly dama; or dappes contains mor of foreign mental of the foreign of foreign of the foreign of the foreign of foreign of the	lass which e require- the grades J.S. No. 5, n contains bercent of is musty, or which ally objec- ty or which ged or ex- trance; or ex- trance; or e than 0.1 taterial; or e or dead inspects, insect ref- her wise of

¹ Color and milling requirements: U.S. No. 1 shall be white or creamy, and shall be well milled. U.S. No. 2 may be slightly gray, and shall be well milled. U.S. No. 3 may be light gray or slightly rosy, and shall be reasonably well milled. U.S. No. 4 may be gray or rosy, and shall be reasonably well milled. U.S. No. 5 may be dark gray or very rosy, and shall be reasonably well milled.

Grade	Seeds (maximum limits)		Color and milling			
	Total	Objectionable seeds	requirements			
U.S. No. 1	Percent 0.5	Percent 0.05	Shall be white or			
U.S. No. 2	1.0	.1	creamy, and shall be well milled. May be slightly gray, and shall be well			
U.S. No. 3	1.5	.2	milled. May be light gray or slightly rosy, and			
U.S. No. 4	3.0	.4	shall be reasonably well milled. May be gray or rosy, and shall be reason-			
U.S. No. 5	5. 0	1.5	ably well milled. May be dark gray or very rosy, and shall			
U.S. Sample grade.	be reasonably well milled. U.S. Sample grade shall be milled rice of this class which does not meet the requirements for any of the grades from U.S. No. 1, to U.S. No. 5, inclusive; or which contains more than 15.0 percent					
.,	of moisture; or which is musty, or sour, or heating; or which has any commercially objectionable foreign odor; or which has a badly damaged or extremely red appearance; or which contains more than 0.1 percent of foreign material; or which contains live or dead weevils or other insects, insect webbing, or insect refuse; or which is otherwise of distinctly low quality.					

(f) Grade designations for all classes of Milled Rice. The grade designation for all classes of milled rice shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade," as the case may be; the name of the class; and the name of each applicable special grade; provided that the word "California" may be added to the grade designation, preceding the name of the class, when it is determined that the rice was grown in the State of California. In the case of Mixed Milled Rice the grade designation shall include also, following the name of the class, the name and approximate percentage of the predominant class and of each contrasting class and of each noncontrasting class of milled rice, if any, contained in the mixture.

(g) Special grades, special grade requirements, and special grade designations for milled rice—(1) Unpolished milled rice—(i) Requirements. Unpolished milled rice (sometimes referred to as undermilled rice) shall be rice from which the hulls, a part of the germs, and the outer bran layers, but not the inner bran layers, have been removed by milling. Unpolished milled rice in grades U.S. No. 1 and U.S. No. 2 may contain not more than 2.0 percent, in grades U.S. No. 3 and U.S. No. 4 not more than 5.0 percent, in grade U.S. No. 5 not more than 10.0 percent, and in grade U.S. No. 6 not more than 15.0 percent, of milled rice other than unpolished milled rice, and the factor "color and milling requirements" shall be disregarded.

(ii) Grade designation. Unpolished milled rice shall be graded and designated according to the special grade requirements for unpolished milled rice and to the grade requirements of the standards otherwise applicable to such milled rice, and there shall be added to and made a part of the grade designation the word "Unpolished."

(2) Parboiled milled rice—(i) Requirements. Parboiled milled rice shall be milled rice in which the starch in the kernels has been gelatinized by soaking, steaming, and drying the rice before the hulls are removed. Parboiled milled rice in grades U.S. Nos. 1 to 6, inclusive, may contain not more than 10.0 percent of kernels of parboiled milled rice that have ungelatinized areas; parboiled milled rice in grades U.S. No. 1 and U.S. No. 2 may contain not more than 0.1 percent, in grades U.S. No. 3 and U.S. No. 4 not more than 0.2 percent, and in grades U.S. No. 5 and U.S. No. 6 not more than 0.5 percent of nonparboiled milled rice.

(ii) Grade designation. Parboiled milled rice shall be graded and designated acording to the special grade requirements for parboiled milled rice and

to the grade requirements of the standards otherwise applicable to such milled rice, except that the factor "chalky kernels" shall be disregarded, and there shall be added to and made a part of the grade designation the words "Parboiled Light" if the milled rice is not colored or is slightly colored by the parboiling treatment, the word "Parboiled" if the milled rice is distinctly but not materially colored by the parboiling treatment, and the words "Parboiled Dark" if the milled rice is materially colored by the parboiling treatment, and the words "Parboiled Dark" if

(3) Coated milled rice—(i) Requirements. Coated milled rice shall be milled rice which, in whole or in part, is coated

with glucose and talc.

(ii) Grade designation. Coated milled rice shall be graded and designated according to the grade requirements of the standards otherwise applicable to such milled rice, and there shall be added to and made a part of the grade designa-

tion the word "Coated."

(4) Granulated Brewers milled rice—
(i) Requirements. Granulated Brewers milled rice shall be milled rice which has been crushed or granulated so that 95.0 percent or more will pass readily through a 5/64 round hole sieve, 70.0 percent or more will pass readily through a 4/64 round hole sieve and not more than 15.0 percent will pass readily through a 2½/64 round hole sieve.

(ii) Grade designation. Granulated Brewers milled rice shall be graded and designated according to the grade requirements of the standards for Brewers milled rice and there shall be added to and made a part of the grade designa-

tion the word "Granulated."

Interested persons may submit written data, views, or arguments to the Director, Grain Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., to be received by him not later than thirty days after this proposal has been published in the Federal Register. Consideration will be given to all written data presented to the Director and to all other information available in the United States Department of Agriculture in arriving at a decision with respect to the proposed revision of the rice standards.

The proposed revisions, if adopted, will be made effective on or about July 1,

1961.

Done at Washington, D.C., this 18th day of April 1961.

ROY W. LENNARTSON, Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 61-3612; Filed, Apr. 21, 1961; 8:45 a.m.]

[7 CFR Ch. IX]

[Docket No. AO-331]

ELBERTA PEACHES GROWN IN CALIFORNIA

Notice of Hearing With Respect to Proposed Marketing Agreement

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Auditorium, Pacific Gas and Electric Building, 1401 Fulton Street, Fresno, California, beginning at 9 a.m., P.d.t., May 10, 1961, with respect to a proposed marketing agreement regulating Elberta peaches grown in California. The proposed marketing agreement has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the provisions of the proposed marketing agreement hereinafter set forth, and to any appropriate modi-

fications thereof.

The Elberta Peach Stabilization Committee submitted and requested the hearing on, the proposed marketing agreement, the provisions of which are as follows:

DEFINITIONS

Section 1. Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Sec. 2. Act.

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Sec. 3. Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

Sec. 4. Production area.

"Production area" means the State of California.

Sec. 5. Elberta peaches.

"Elberta peaches" means regular Elbertas (also known as Rumphs, Old Elbertas, and Late Elbertas) and the following peaches, commonly referred to as strains of Elberta peaches:

(a) Early Elbertas (also known as Gleason Elbertas and Early Fays);

(b) Fay Elbertas (also known as Gold Medals and Golden Elbertas); and

(c) Burbank July Elbertas (Plant Patent No. 15) (also known as Early Elbertas, Burbank Elbertas, Burbanks, Jewels, Kim Elbertas, July Elbertas, Bodines, Brentwood Beautys, Burnetts, June Elbertas, Golden Elbertas, Mulberrys, Socalas, and California Elbertas, and by other synonyms);

(d) Peterson Elbertas.

Sec. 6. Committee.

"Committee" means the Elberta Peach Administrative Committee established pursuant to section 20.

Sec. 7. Fiscal period.

"Fiscal period" is synonymous with "fiscal year" and means the 12-month period beginning on March 1 of one year and ending on the last day of February of the following year or such other period as the committee, with the approval of the Secretary, may prescribe.

Sec. 8. Grower.

"Grower" is synonymous with "producer" and means any person producing Elberta peaches, with a proprietary interest therein, for sale or shipment in the current of interstate commerce, or so as directly to burden, obstruct, or affect such commerce.

Sec. 9. Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier transporting Elberta peaches owned by another person) who handles Elberta peaches.

Sec. 10. Handle.

"Handle" and "ship" are synonymous and means to sell, consign, deliver, transport, or otherwise place Elberta peaches, or cause Elberta peaches to be sold, consigned, delivered, or transported, or in any other way placed in the current of interstate commerce or so as directly to burden, obstruct, or affect such commerce.

ADMINISTRATIVE BODY

Sec. 20. Establishment and membership.

Establishment. There is hereby established an Elberta Peach Administrative Committee consisting of nine handler members, each of whom shall have an alternate who shall also be a handler. Six of the members, and their alternates, shall be from that group of handlers, largest in size individually, which handled not less than 65 percent of the preceding season's total handlings of Elberta peaches. All members and alternates shall be signers of this agreement.

Sec. 21. Term of office.

The term of office of each member and alternate member of the committee shall be for one year beginning March 1 and ending on the last day of February. Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

Sec. 22. Nomination.

(a) Initial members. Nominations for each of the initial members and alternate members, may be submitted to the Secretary by interested persons prior to the effective date of this part. Such nominations may be secured through a meeting or meetings of handlers. In the event nominations for initial members and alternate members are not filed within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selections shall be on the basis of the representation provided in section 20.

(b) Successor members. (1) The committee shall hold, or cause to be held. not later than February 15 of each year. a meeting or meetings of handlers for the purpose of electing nominees for successor members and alternate members of the committee. These meetings shall be supervised by the committee which shall prescribe such procedure as shall be reasonable and fair to all persons concerned:

(2) Only handlers who are present at such meetings, or represented at such meetings by duly authorized employees, may participate in the election of nominees. Each such handler, including his employees, shall be entitled to cast but one vote in each balloting in which he is eligible to participate.

Sec. 23. Selection.

From the nominations made pursuant to section 22 or from other qualified persons, the Secretary shall select the nine members of the committee and an alternate for each such member.

Sec. 24. Failure to nominate.

If nominations are not made within the time and in the manner prescribed in section 22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in section 20.

Sec. 25. Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

Sec. 26. Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify, or in the event of death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in sections 22 and 23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in section 20.

Sec. 27. Alternate members.

An alternate member of the commitee. during the absence of the member for whom he is an alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. In the event both a member of the committee and his alternate are unable to attend a committee meeting, the member, or, on his failure, the attending members of the committee may designate any other alternate member to serve in such member's place and Provided. That approval of any recomstead

Sec. 30. Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms:

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part:

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

Sec. 31. Duties

The committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers:

(b) To appoint such employees, agents. and representatives as it may deem necessary, and to determine compensation and to define the duties of each:

(c) To submit to the Secretary as soon as practicable after the beginning of each fiscal period a budget for such fiscal period, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such period:

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by

the Secretary;

(e) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee:

(f) To cause its books to be audited by a competent public accountant at least once each fiscal year and at such times as the Secretary may request;

(g) To act as intermediary between the Secretary and any grower or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to Elberta

(i) To submit to the Secretary the same notice of meetings of the committee as is given to its members;

(j) To submit to the Secretary such available information as he may request;

(k) To investigate compliance with the provisions of this part;

(1) To adopt such rules and regulations for the conduct of its business as it may deem advisable:

(m) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart, and as may be necessary to accomplish the purposes of the act and the efficient administration of this subpart.

Sec. 32. Procedure.

(a) Six members of the committee, or alternates acting for members, shall constitute a quorum. Any action of the committee shall require the concurring vote of a majority of the committee: mendation to the Secretary pursuant to section 56 shall require at least seven concurring votes.

(b) The committee may vote by telephone, telegraph, or other means of communication, and any votes so cast shall be confirmed promptly in writing: Provided, That if an assembled meeting is held, all votes shall be cast in person.

Sec. 33. Expenses and compensation.

The members of the committee, and alternates when acting as members, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part: Provided, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members, and may pay expenses as aforesaid.

EXPENSES AND ASSESSMENTS

Sec. 40. Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired in the manner prescribed in section 41.

Sec. 41. Assessments.

(a) (1) As his pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal period, each handler who first handles Elberta peaches during such period shall pay to the committee, upon demand, assessments on all Elberta peaches so handled. Any assessments paid hereunder by handlers shall not be passed on to producers.

(2) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become

inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such handler during a fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be incurred during such period and to accumulate and maintain a reserve fund equal to approximately one fiscal period's expenses. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all Elberta peaches handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purposes.

Sec. 42. Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with the following:

(1) If such excess is not retained in a reserve, as provided in subparagraph (2) of this paragraph, it shall be refunded proportionately to the persons from whom it was collected: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such person. No refund shall be made to any person who is delinquent in the payment of assess-

ments at the end of the fiscal period. (2) The committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: Provided, That funds already in the reserve do not equal approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray expenses, during any fiscal period, prior to the time assessment income is sufficient to cover such expenses, (ii) to cover deficits incurred during any fiscal year when assessment income is less than expenses, (iii) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, (iv) to cover necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: Provided, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and

disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to the committee, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the committee full title to all of the property, funds, and claims vested in such member pursuant to this part.

RESEARCH

Sec. 45 Marketing research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consump-

tion of Elberta peaches. The expenses of such projects shall be paid from funds collected pursuant to section 41.

REGULATIONS

Sec. 50. Filing of price lists.

(a) Each handler shall file with the committee a list of selling prices applicable to Elberta peaches handled by him. Such list shall be uniform as to all buyers in any market area, shall identify the item or items covered by each listed price, and shall otherwise conform to all provisions of this part. The committee may specify identifying characteristics required to be included, such as, but not limited to, variety, type and size of container, type of pack, brand, and size and quality of fruit. There shall be filed with each list, and made a part thereof, complete information showing handler's terms of sale, including all allowances and discounts, and such other information as the committee may prescribe which affects handler's net returns.

(b) If the Secretary, upon recommendation of the committee, or based on other available information, finds that the filing of price lists for any season, or any portion thereof, is not necessary for the effectuation of the declared purposes of the act, he may suspend the price filing requirement for such season or a specified portion or portions thereof.

Sec. 51. Effective time and revision of price lists.

(a) The initial season price list of any handler for an item becomes effective at 6:00 a.m. of the second day following the day on which it is filed: Provided, That upon request of a handler, the committee may waive the prescribed waiting time for any such initial price list applicable to a specified quantity, already packed of an item which it determines to be insignificant in volume and not normally desired by buyers because of special characteristics of the fruit or the lot, such as, but not limited to, a predominance of very large or very small sized fruit, or the mixture of varieties in a lot.

(b) Any initial seasonal price list filed, or any revision thereof, may be withdrawn at any time, or may be revised at any time by filing a revision with the committee which includes any new terms of sale or other changes affecting

net returns to the handler.

(c) A non-price decreasing revision for an item becomes effective when filed: *Provided*, That if it replaces a section 51 (d) or (e) revision it shall not become effective for 24 hours after the section 51 (d) or (e) revision was filed, or such other time interval after such filing as the committee may establish.

(d) A price decreasing revision for an item to not lower than the lowest pending price of any handler for a comparable item becomes effective at the same time as such pending revision.

(e) A price decreasing revision for an item to not lower than the the lowest effective price of another handler for a comparable item becomes effective when filed

(f) A price decreasing revision for an item to below the lowest price on file by any handler for a comparable item becomes effective at 6:00 a.m. of the second day following the day it is filed: Provided. That if the committee received. during any one day, from handlers of more than 30 percent of the preceding season's total handlings of Elberta peaches, such revisions and accompanying requests for waiver of the prescribed waiting time, such revisions become effective at 6:00 a.m. of the following day: Provided, further, That upon request of a handler, the committee may waive the prescribed waiting time for any such price decreasing revision applicable to a specified quantity, already packed, of an item which it determines to be insignificant in volume and not normally desired by buyers because of special characteristics of the fruit or the lot, such as, but not limited to, a predominance of very large or very small sized fruit, or the mixture of varieties in a lot.

(g) The committee may change the time intervals between filing and effective times of initial or revised price lists.

Sec. 52. Offers, contracts, sales.

No handler shall either directly, or indirectly through a broker, agent, or other person, quote, offer to sell at a specified price, or sell at a specified price Elberta peaches unless he has an effective price list filed with the committee. Each such quotation, offer to sell, sale, or other trading transaction by a handler, except those specifically exempted by section 54, or permitted in accordance with the proviso in section 60(a), shall be only in conformity with the price and other terms of the effective price list of such handler on file with the committee.

Sec. 53. Manner of filing price lists.

(a) Price lists may be filed by mail, telegraph, teletype, or personal delivery, or by telephone if confirmed by mailing, teletyping, telegraphing, or delivering such confirmation to the committee on the same day as the filing by telephone.

(b) A price list is filed or on file with the committee when it is received in an

office of the committee.

(c) The committee may prescribe a form which must be used by handlers in filing price lists.

Sec. 54. Exemptions.

Elberta peaches which are sold at bona fide public auction, or by process of law, are exempt from the requirements of section 52. If the Secretary finds, upon recommendation of the committee, or from other information, that, other transactions should be exempt from the requirements of section 52, he may exempt them. Such exemptions may include Elberta peaches produced in certain areas, Elberta peaches destined for certain, areas, handlings of small quantities, and other transactions whose exemption will not tend to prevent or impede effectuation of the declared purposes of the act.

Sec. 55. Publication of price lists.

(a) Price lists shall be posted in a conspicuous place in the offices of the

committee as soon as possible after receipt.

(b) The committee shall give prompt notice in writing to all handlers and the Secretary, of all price lists filed.

(c) The committee may, upon request of a handler and at his expense, notify him promptly by telephone or telegram of price list filings.

(d) The committee may give public notice of price lists filed through public

information media.

Sec. 56. Suspension of price lists.

(a) If any price list, or any revision thereof, filed by a handler does not conform, in whole or in part, with the provisions of section 50 and the rules and regulations effective thereunder, the committee shall notify the handler of the manner in which such price list fails to meet the requirements thereof and shall suspend the effectiveness of such price list.

(b) The Secretary may, upon recommendation of the committee, or upon other available information, suspend, pending investigation which shall be completed as soon as possible, the effectiveness of any price, discount, allowance, term of sale, or other feature of any price list if he has reason to believe that such action is necessary to maintain orderly marketing conditions and to effectuate the declared policy of the act. The Secretary shall report such suspension to the committee who shall in turn immediately notify the handler whose filed price has been suspended. The Secretary may declare a filed price, discount or term of sale, in whole or in part, to be ineffective if, after investigation and opportunity to be heard has been afforded the handler whose price filing was suspended, the Secretary finds from the facts presented during such investigation that such price list, term of sale, or discount, or other feature of such price list, in whole or in part, disrupts orderly marketing or tends to prevent or impede effectuation of the declared policy of the act.

UNFAIR PRACTICES

Sec. 60. Unfair methods of competition and unfair trade practices.

The following are unfair methods of competition and unfair trade practices

and are prohibited: (a) The payment or allowance of rebates, refunds, commissions, discounts, either in the form of money or otherwise; or the extending of special services or privileges which are not specified in the filed price list: Provided, That a handler may make a reasonable allowance to a customer as compensation for a reduction in quality occurring after shipment. A complete report must be made to the committee following the granting of each such allowance. committee may prescribe information to be contained in such report and may require handlers to take reasonable precautions prior to granting any such allowance to assure that the alleged quality deterioration actually occurred.

(b) The giving away or selling of other products at less than reasonable market value to a purchaser or user of Elberta peaches for the purpose or with

the effect of influencing the sale of Elberta peaches.

(c) The consigning, shipping, delivering or transporting of unsold Elberta peaches by a handler, or the causing by a handler of unsold Elberta peaches to be consigned, shipped, delivered, or transported in the current of interstate commerce or so as directly to burden, obstruct, or affect such commerce: Provided, That this does not apply to Elberta peaches consigned to a bona fide public auction. Each shipment of Elberta peaches consigned to a bona fide public auction must be reported to the committee on a form prescribed by it, not later than the second business day after the shipment was en route. The committee may modify the reporting time of such shipments.

(d) The withholding from, or inserting in, an invoice information which makes the invoice, in whole or in part, a false record of the transaction covered

by the invoice.

(e) Any provision within, or added to, a sales contract, or action or agreement outside such contract, whereby the handler is obligated to reflect declines in market prices of Elberta peaches by charging the buyer a subsequent market price in lieu of the sales price specified in the contract.

RECORDS AND REPORTS

Sec. 70. Records and reports.

(a) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, each shipment of Elberta peaches as follows:

(1) The name of the shipper and the

shipping point:

(2) The car or truck license number (or name of the trucker), and identification of the carrier;

(3) The date and time of departure;

(4) The number and type of containers in the shipment:

(5) The quantities shipped, showing separately the variety, grade, and size of the fruit;

(6) The destination;

(7) Identification of the inspection certificate or waiver pursuant to which the fruit was handled.

(b) Each handler shall furnish to the committee, upon request, a certified copy of the sales invoice covering each shipment of Elberta peaches. The committee may prescribe information to be contained in such sales invoice.

(c) Each handler shall furnish to the committee, at such time and for such periods as the committee may designate, certified reports covering unsold packed Elberta peaches on hand at the close of each business day, showing separately the quantity loaded on shipping conveyances and in cold storage.

(d) Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as may be necessary to enable the committee to perform its duties under this part.

(e) Each handler shall maintain for at least two succeeding fiscal years, all records of his sales transactions with respect to Elberta peaches, and such other records of the Elberta peaches received and disposed of by him as may be necessary to verify the reports he submits to the committee pursuant to this section. Representatives of the Secretary, or the committee, are authorized to inspect any or all of such records during the regular business hours of the handler. Each handler shall give such representatives reasonable assistance in making such records available to them.

(f) All reports and records submitted by handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular handler from whom received: Provided. That such data and information may be combined, and made available to any person, in the form of general reports in which the identities of the individual handlers furnishing the information are not disclosed, and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

Sec. 72. Right of the Secretary.

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

Sec. 73. Effective time.

The provisions of this part and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in section 74: Provided, That the Secretary shall not execute this agreement until it has been executed by handlers of not less than 85 percent of the preceding season's total handlings of Elberta peaches.

Sec. 74. Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act. (c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers: Provided, That such majority has, during the current marketing season, produced more than 50 percent of the volume of the Elberta peaches which were produced within the production area for shipment in fresh form. Such termination shall become effective on the first day of March subsequent to the announcement thereof by the Secretary.

retary.

(d) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them

cease to be in effect.

Sec. 75. Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the

trustees.

Sec. 76. Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

Sec. 77. Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

Sec. 78. Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Depart-

ment of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

Sec. 79. Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

Sec. 80. Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

Sec. 81. Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Sec. 82. Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

Sec. 83. Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

Sec. 84. Withdrawal.

Any signatory handler may withdraw from this agreement during the months of January and February of any year by filing with the Secretary and the committee notice of such withdrawal.

Copies of this notice of hearing may be obtained from the office of the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or the Field Representative, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Rooms 300–302, 701 K Street, Sacramento 14, California.

Dated: April 19, 1961.

ROY W. LENNARTSON, Deputy Administrator, Marketing Services.

[F.R. Doc. 61-3682; Filed, Apr. 21, 1961; 8:51 a.m.]

[7 CFR Part 907]

[Docket No. AO-212-A11]

MILK IN MILWAUKEE, WIS., MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Milwaukee Inn, 916 East State Street, Milwaukee, Wisconsin, beginning at 10:00 a.m., on May 10, 1961, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Milwaukee, Wisconsin marketing agree.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order. The proposal to expand the marketing area opens up for consideration the various provisions of the order with respect to their applicability to the proposed expanded marketing area, including the level of prices at each location where milk is received from producers.

The proposed amendments set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Golden Guernsey Dairy Cooperative, Kenosha Milk Producers Cooperative, Inc., Milwaukee Cooperative Milk Producers, Pure Milk Products Cooperative and Racine Milk Producers Cooperative Association:

Proposal No. 1.

§ 907.1 Act.

"Act" means Public Act No. 10, 73d Congress as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

DEFINITIONS

§ 907.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the Secretary of Agriculture.

§ 907.3 USDA.

"USDA" means the United States Department of Agriculture.

§ 907.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 907.5 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association is qualified under provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

§ 907.6 Milwaukee, Wisconsin marketing area.

The Milwaukee, Wisconsin marketing area, hereinafter referred to as the "marketing area", means all territory within (a) the counties of Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha, all in Wisconsin, including all towns, villages and cities; (b) the towns of Alto, Ashford, Auburn, Byron, Eden, Oakfield, Osceola, and Waupun, the villages of Campbellsport, Eden, and Oakfield, and the city of Waupun in Fond du Lac County, Wisconsin.

§ 907.7 Producer.

"Producer" means a person, other than a producer-handler, who produces Grade A milk in conformity with the sanitation requiremens of any duly constituted Federal, state, county, or municipal authority, whose milk is received at a fluid milk plant.

§ 907.8 Fluid milk plant.

"Fluid milk plant" means any plant in which:

(a) Class I milk is processed or packaged for delivery on a route in the marketing area, or

(b) Milk eligible for distribution in the marketing area as Grade A milk is received from dairy farmers, and moved to a plant(s) described in paragraph (a) of this section on any day during the months of March through June and on 10 or more days during the months of July through February.

§ 907.9 Handler.

"Handler" means any person, including any cooperative association, in his capacity as the operator of a fluid milk plant, but this definition shall not be deemed to include any governmental institution which has no disposition of Class I milk for use off its own premises.

§ 907.10 Producer-handler.

"Producer-handler" means any person who produces milk and operates a fluid milk plant, but who receives no milk from other producers.

§ 907.11 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk received from the farm(s) of one or more producers at a fluid milk plant. This definition shall include milk diverted to another milk plant by a handler for his account and milk so diverted shall be deemed to have been received by the handler at his fluid milk plant.

§ 907.12 Fluid milk product.

"Fluid milk product" means fluid milk, modified milk or skim milk, flavored milk drinks, skim milk, buttermilk, concentrated (including frozen) milk, concentrated flavored milk drinks (concentrated items not sterilized), half and half and cream (sweet or sour).

§ 907.13 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month of fluid milk products except packaged finished products disposed of without further processing or packaging, other than receipts from other handlers or producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the fluid milk plant) which are reprocessed or converted to another product in the fluid milk plant during the month.

§ 907.14 Route.

"Route" means a delivery (including delivery by a vendor or sale from a plant or plant store) of any fluid milk product, other than a delivery to any milk processing plant.

§ 907.15 Base milk.

"Base milk" means producer milk during each of the months of March, April, May, and June which is not in excess of such producer's base multiplied by the number of days of production that such milk was received at fluid milk plants in such month: Provided, That base milk shall not include milk received from a farm from which milk is delivered in the same month to a plant at which it is subject to the pricing and classification provisions of another order issued pursuant to the Act.

§ 907.16 Excess milk.

"Excess milk" means milk received at fluid milk plants from a producer during each of the months of March, April, May, and June which is in excess of the base milk received from such producer during such month.

MARKET ADMINISTRATOR

§ 907.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by the Secretary.

§ 907.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions:

(b) To receive, investigate and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and (d) To recommend amendments to

§ 907.22 Duties.

the Secretary.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to the following:

(a) Within 30 days following the date of which he enters upon his duties, execute and deliver to the Secretary a bond, effective as of the date on which he

enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety satisfactory to the Secretary;

(b) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(c) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and

provisions;

(d) Pay out of the funds provided by § 907.71 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 907.75, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may

designate:

(f) Publicly announce, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made reports pursuant to \$\$ 907.30 through 907.33, or payments pursuant to \$\$ 907.70 through 907.75;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Audit records of all handlers or persons upon whose utilization the classification of skim milk and butterfat for each handler depends to verify the reports and payments required pursuant to the provisions of this part; and

(i) Publicly announce the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk pursuant to \$ 907.51 and the Class I butterfat differential pursuant to \$ 907.54(a), both for the current month; the minimum price for Class II milk pursuant to \$ 907.52 and the Class II butterfat differential pursuant to \$ 907.54(b), both for the preceding month; and the minimum price for Class III milk pursuant to \$ 907.53 and the Class III butterfat differential pursuant to \$ 907.54 (b), both for the preceding month;

(2) On or before the 12th day after the end of each of the months of July through February, the uniform price for each handler pursuant to § 907.62 and the butterfat differential pursuant to § 907.64; and

(3) On or before the 12th day after the end of each of the months of March through June the uniform prices for base milk and excess milk pursuant to § 907.63 and the butterfat differential pursuant to § 907.64.

REPORTS, RECORDS, AND FACILITIES

§ 907.30 Monthly reports of receipts and utilization.

On or before the 7th day of each month, each handler shall report to the

market administrator for the preceding month in detail and on forms prescribed by the market administrator as follows:

(a) The quantities of butterfat and skim milk contained in or represented

by:

- (1) Producer milk (including for the months of March through June the aggregate amount of base and excess milk);
- (2) Fluid milk products received from other fluid milk plants;

(3) Other source milk; and

- (4) Inventories of fluid milk products on hand at the end of each month;
- (b) The utilization of all skim milk and butterfat required to be reported pursuant to paragraph (a) of this section; and
- (c) Such other information with respect to sources and disposition as the market administrator may prescribe.

§ 907.31 Payroll reports.

On or before the 19th day of each month each handler shall report his producer payroll for the preceding month which shall show:

- (a) The total pounds of milk received from each producer (including for the months of March through June the total pounds of base and excess milk) and the percentage of butterfat contained therein; and
- (b) The date and net amount of payment to such producer, or to a cooperative association for such producer's milk, with the price, deductions and charges involved and the nature of each.

§ 907.32 Producer-handler reports.

Each producer-handler shall make reports at such time and in such manner as the market administrator may request.

§ 907.33 Exempt handler reports.

Each handler exempt pursuant to \$907.81 shall report to the market administrator his disposition of fluid milk products on routes within the marketing area at such time and in such manner as the market administrator shall prescribe.

§ 907.34 Records and facilities.

Each handler shall maintain and make available to the market administrator, during the usual hours of business, such accounts and records of all of his operations and such facilities as are necessary to verify reports or to ascertain the correct information with respect to:

(a) The receipts and utilization or disposition of all skim milk and butter-fat received, including all milk products received and disposed of in the same form:

(b) The weights and tests for butterfat, skim milk and other content of all milk and milk products handled;

(c) Inventories of all dairy products on hand at the beginning and end of each month; and

(d) Payments to producers and cooperative associations.

§ 907.35 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years

to begin at the end of the month to which such books and records pertain: Provided. That if within such three-year period, the market administrator notifies a handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 907.40 Skim milk and butterfat to be classified.

All skim milk and butterfat required to be reported pursuant to § 907.30 shall be classified (separately as skim milk and butterfat) pursuant to §§ 907.41 through 907.47.

§ 907.41 Classes of utilization.

Subject to the conditions set forth in § 907.43, the classes of utilization shall be:

(a) Class I utilization shall be:

(1) All skim milk and butterfat disposed of in the form of fluid milk products, except those classified pursuant to paragraph (c) (2) of this section;

(2) All skim milk and butterfat not accounted for as Class II and Class III

utilization; and

(3) All butterfat used to produce cottage cheese:

(b) Class II utilization shall be all skim milk and butterfat used to produce any product other than those specified in paragraph (a) or (c) of this section.

(c) Class III utilization shall be:

(1) All skim milk and butterfat used to produce butter, nonfat dry milk or cheese:

(2) All skim milk and butterfat disposed of for livestock feed or dumped subject to prior notification to and verification (at his discretion) by the market administrator:

(3) All skim milk and butterfat in shrinkage allocated to milk received from producers, but not to exceed 2 percent of such receipts;

(4) All skim milk and butterfat in shrinkage of other source milk;

- (5) All skim milk and butterfat contained in monthly inventory variations; and
- (6) All skim milk used to produce cottage cheese.

§ 907.42 Shrinkage.

(a) When producer milk is utilized in conjunction with other source milk, the shrinkage shall be allocated pro rata between the receipts of skim milk and butterfat in producer milk and other source milk.

(b) Producer milk transferred by a handler to another handler without first having been received in the transferor handler's plants shall be included in the receipts at the plant of the transferee handler for the purpose of computing his shrinkage and shall be excluded at

the plant of the transferor handler in computing his shrinkage.

§ 907.43 Transfers.

Any bulk fluid milk, fluid cream, or skim milk shall be classified as Class I milk, if transferred, or diverted as milk from a fluid milk plant to:

(a) A fluid milk plant of another handler, unless utilization in another class(es) is indicated in reports to the market administrator by both handlers, in which case such milk, skim milk, or cream, shall be classified as reported: Provided, That the quantity in such other class(es) shall be limited to the total use in the plant of the transferee-handler in such class(es) after the subtraction of other source milk pursuant to §§ 907.46 and 907.47.

(b) The plant of a producer-handler.(c) A nonfluid milk plant unless the following conditions are met:

(1) Utilization in another class(es) is claimed by the transferor in his report to the market administrator;

(2) The nonfluid milk plant is located within the State of Wisconsin or in an area outside the State of Wisconsin not more than 150 miles from the marketing area:

(3) Class I utilization in the nonfluid milk plant does not exceed the receipts of milk during the month from dairy farmers who the market administrator determines are the regular source of supply for such plant. If such utilization exceeds such receipts, any milk, cream or skim milk transferred shall be Class I milk to the extent of such excess;

(4) The operator of the nonfluid milk plant maintains adequate books and records showing the receipts and utilization of all milk and milk products at such plant, which records are made available if requested by the market administrator for the purpose of verification; and

(5) Not less than an equivalent amount of utilization remains in the class(es) claimed after the subtraction in sequence beginning with the lowest priced class of any receipts at the non-fluid milk plant during the month from plants not regulated by any Federal order.

§ 907.44 Responsibility of handlers.

All skim milk and butterfat shall be classified as Class I utilization unless the handler who first received such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 907.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and obvious errors the monthly report submitted by each handler and compute the total pounds of skim milk and butterfat respectively, in Class I, Class II, and Class III utilization for such handler: Provided, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to

the nonfat milk solids contained in such product, plus all of the water normally associated with such solids in the form of whole milk.

§ 907.46 Allocation of butterfat classified.

The pounds of butterfat remaining after making the following computations shall be the pounds in each class allocated to milk received from producers:

(a) Subtract from the total pounds of butterfat in Class III utilization the pounds of butterfat shrinkage and inventory variation pursuant to §§ 907.41

(c) (3) and (5).

(b) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk received from plants other than those subject to another marketing agreement or order issued pursuant to the Act:

(c) Subtract from the pounds of butterfat remaining in each class, in series beginning with the lowest-priced utilization, the pounds of butterfat in other source milk received from a plant subject to another marketing agreement or order issued pursuant to the Act:

(d) Subtract from the remaining pounds of butterfat in each class the pounds of butterfat received as bulk fluid milk, cream, or skim milk, from other handlers according to the classification established pursuant to §§ 907.41 and 907.43(a);

(e) Add to the remaining pounds of butterfat in Class III utilization the pounds subtracted pursuant to para-

graph (a) of this section; and

(f) If the remaining pounds of butterfat in all classes exceed the pounds of butterfat in milk received from producers, subtract such overage from the remaining pounds of butterfat in each class in series, beginning with the lowest-priced utilization.

§ 907.47 Allocation of skim milk classified.

Allocate the pounds of skim milk in each class to milk received from producers in the same manner as that prescribed for butterfat in § 907.46.

§ 907.48 Computation of total producer milk in each class.

The amounts computed pursuant to \$\$ 907.46 and 907.47 will be combined into one total for each class and the weighted average butterfat content of producer milk in each class will be determined.

MINIMUM PRICES

§ 907.50 Basic formula price.

The basic formula price shall be the higher of the prices computed as follows:

(a) The average of the basic of field prices per hundredweight reported to have been paid, or to be paid, for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the USDA.

Present Operator and Location

Borden Co., New London, Wis. Borden Co., Orfordville, Wis. Carnation Co., Richland Center, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price computed from the following formula:

(1) Multiply by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the USDA, during the month: Provided, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter:

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the

USDA: and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75.2 cents and adjust to the nearest cent.

Proposed by Golden Guernsey Dairy Cooperative, Kenosha Milk Producers Cooperative, Inc., Milwaukee Cooperative Milk Producers, and Racine Milk Producers Cooperative Association:

§ 907.51 Class I milk price.

(Adjust Class I price levels in an amount appropriate to reflect changes in classification and methods of accounting for skim milk and butterfat.)

Proposed by Golden Guernsey Dairy Cooperative, Kenosha Milk Producers Cooperative, Inc., Milwaukee Cooperative Milk Producers, Pure Milk Products Cooperative, and Racine Milk Producers Cooperative Association:

§ 907.52 Class II milk price.

Subject to the provisions of § 907.54 the minimum price per hundredweight to be paid by each handler for milk received at his fluid milk plant from producers or a cooperative association during the month and utilized as Class II milk shall be the basic formula price.

§ 907.53 Class III milk price.

Subject to the provisions of § 907.54 the minimum price per hundredweight to be paid by each handler for milk received at his fluid milk plant from producers or a cooperative association during the month and utilized as Class III milk shall be the price computed pursuant to § 907.50(b), plus 15 cents: Provided, That the resulting price shall not be higher than the Class II price.

§ 907.54 Handler butterfat differential.

If the average butterfat test of Class I milk, Class II milk or Class III milk as computed pursuant to § 907.48 is more or less than 3.5 percent, there shall be added to, or subtracted from as the case may be,

the price for such class of utilization, for each one-tenth of one percent that such average butterfat test is above or below 3.5 percent, a butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the USDA during the month specified below by the applicable factor listed, and rounding to the nearest one-tenth cent;

(a) For Class I milk multiply such price for the preceding month by 0.125;

(b) For Class II and Class III milk, multiply such price for the current month by 0.115.

§ 907.55 Equivalent price provision.

Whenever the provisions of this part require the market administrator to use a specific price (or prices) for milk or any milk product for the purpose of determining minimum class prices or for any other purpose and the specified price is not reported or published, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with, the price specified.

HANDLER'S OBLIGATION AND UNIFORM
PRICE

§ 907.60 Computation of value of producer milk.

The value of producer milk received by each handler shall be computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 907.48, by the applicable class prices;

- (b) Add the amounts computed by multiplying the quantity of overage assigned to each class pursuant to \$907.46 (f) and the corresponding step of \$907.47 by the applicable class price; and
- (c) Add or subtract, as the case may be, the amount necessary to correct errors in receipts or utilization for previous months as disclosed by audit by the market administrator.
- § 907.61 Computation of value for uniform price.

For each month the market administrator shall compute for each handler an aggregate value for determining a "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to fluid milk plants of such handler as follows:

(a) From the value of milk computed for such handler pursuant to § 907.60, subtract, if the weighted average butterfat test of all milk represented by such value is greater than 3.5 percent or add, if the weighted average butterfat test of such milk is less than 3.5 percent an amount computed by multiplying the total pounds of butterfat represented by the difference of such weighted average butterfat test from 3.5 percent by the butterfat differential computed pursuant to § 907.64 multiplied by 10;

(b) Adjust the resulting amount by the sum of money used in adjusting the uniform price, pursuant to § 907.62 or § 907.63 for the previous month to the nearest full cent. the part of the association, each handler shall pay to the cooperative association

§ 907.62 Computation of uniform price.

For each of the months of July through February, the market administrator shall compute for each handler a uniform price per hundredweight for producer milk of 3.5 percent butterfat content by dividing the aggregate value computed pursuant to § 907.61 by the total hundredweight of producer milk included in such computation; and adjusting to the nearest full cent.

§ 907.63 Computation of uniform prices for base milk and excess milk.

For each of the months of March through June, the market administrator shall compute for each handler the uniform prices per hundredweight for base milk and excess milk, each of 3.5 percent butterfat content, as follows:

(a) From the reports submitted by handlers pursuant to § 907.30 determine the pounds of producer milk that is base

milk and that is excess milk:

(b) Determine the value of excess milk by multiplying the pounds of excess milk by the excess price which shall be the Class II price computed pursuant to \$ 907.52.

(c) Subtract the value of excess milk pursuant to paragraph (b) of this section from the value of milk obtained in

§ 907.61; and

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk obtained in paragraph (a) of this section, and adjust to the nearest full cent. The resulting figure shall be the uniform price for base milk.

§ 907.64 Producer butterfat differential.

The uniform prices pursuant to \$\$ 907.62 and 907.63 shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate computed as follows: To the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the USDA for the month during which the milk was received, add 20 percent, divide the result by 10, and adjust to the nearest one-tenth cent.

PAYMENT FOR MILK

§ 907.70 Time and method of payment.

(a) Except as provided in paragraphs (b) and (c) of this section, on or before the 15th day after the end of each month each handler shall pay each producer for producer milk received from him during the month the uniform prices provided in § 907.62 or § 907.63 adjusted by the butterfat differential pursuant to § 907.64:

(b) (1) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on

the part of the association, each handler shall pay to the cooperative association on or before the 14th day of each month, in lieu of payments pursuant to paragraph (a) of this section an amount equal to the gross sum due for all milk received from certified members, less amount owing by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer and submit to the cooperative association on or before the 13th day of each month written information which shows for each such member-producer:

(i) The total pounds of milk received from him during the preceding month, including, for the months of March through June, the pounds of base and

excess milk;

(ii) The total pounds of butterfat contained in such milk:

(iii) The number of days on which such milk was received; and

(iv) The amounts withheld by the handler in payment for supplies sold.

(2) The payment and submission of information pursuant to subparagraph (1) of this paragraph shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association.

(3) A copy of each request and promise to reimburse pursuant to subparagraph (1) of this paragraph and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) Each handler shall make payment to a cooperative association for milk received from the fluid milk plant of such cooperative association on or before the 10th day after the end of each month in which it was received, at not less than the applicable class prices.

§ 907.71 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 13th day after the end of each month 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe with respect to:

(a) All receipts within the month of milk from producers, including milk of such handler's own production:

(b) Any other source milk allocated to Class I pursuant to § 907.46(b) and the corresponding step of § 907.47: Provided, That any other source milk derived from milk subject to an assessment for expense of administration under a marketing agreement or order issued pursuant to the Act for another fluid milk market-

ing area shall not be subject to assessment pursuant to this section.

§ 907.72 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments pursuant to § 907.70 for milk received from each producer (excluding milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as the Secretary may prescribe, and on or before the 15th day after the end of each month shall pay such deduction to the market administrator. Such monies shall be used by the market administrator to verify weights, samples and tests of milk received from producers and to provide producers with market information, such services to be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers whose milk is received at a fluid milk plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the Secretary, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments required pursuant to § 907.70 as may be authorized by such producers, and pay such deductions on or before the 15th day after the end of the month to the cooperative association rendering such services of which such producers

are members.

§ 907.73 Errors in payment.

Whenever audit by the market administrator of any handler's reports, books, records or accounts discloses adjustments to be made, for any reason, which result in monies due to the market administrator from such handler, to such handler from the market administrator, or to any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any such amount due and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 907.74 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to \$\$ 907.70 through 907.73 shall be increased one-half of one percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

§ 907.75 Termination of obligations.

The provisions of this section shall apply to any obligations under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation:

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or association or, if the obligation is payable to the market administrator, the account for which it is

to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part. to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obliga-

tion is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time. files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

APPLICATION OF PROVISIONS

§ 907.80 Producer-handler exemption.

A producer-handler shall be exempt from all provisions of this part except §§ 907.32, 907.34, and 907.35.

§ 907.81 Handlers subject to other Federal orders.

The provisions of this part shall not apply to a handler with respect to the operation of a fluid plant during any

month in which the milk at such plant would be subject to the classification. pricing and payment provisions of another marketing agreement or order issued pursuant to the Act and the disposition of fluid milk products in the other Federal marketing areas exceeds that in the Milwaukee, Wisconsin marketing area: Provided, That the handler which is exempted from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at his plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF BASE

§ 907.82 Base.

"Base" for each producer shall be determined by the market administrator and shall be the amount obtained by dividing the total pounds of producer milk received from such producer by all handlers during the months of August through November immediately preceding by the number of days on which such milk is received from such producer: Provided, That for the purpose of computing the base of a producer pursuant to this section, the number of days included in his producer milk deliveries shall be the number of days of production of producer milk: Provided further, That if no milk is received from a producer at a pool plant during the month of August through November or if milk is received on less than 75 days during such months, the base of such producer shall be his average daily deliveries of producer milk for each of the months of March through June multiplied by 65 percent: And provided further, That any producer for whom a base has been established pursuant to this section based on deliveries of 75 or more days during the preceding months of August through November may, in lieu thereof, by notifying the market administrator prior to March 1, be accorded a base computed pursuant to the immediately preceding proviso of this section.

§ 907.83 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall be held in the name of the producer and may be transferred

only at his option.

(b) The milk to which the transferred base shall apply must be produced on the same farm from which such base was earned and the transferor must notify the market administrator in writing on or before the last day of the month that such base is to be transferred indicating the name of the transferree, the amount of base transferred, and the effective date of the transfer; and in the event of a producer's death his base may be so transferred upon written notice to the market administrator from any member of the producer's immediate family.

(c) Where two or more producers deliver milk from the same farm, the market administrator shall compute one base for each such farm, which base shall be held jointly in the names of the producers, and during March, April, May, and June, each producer having an interest in a jointly held base shall share the base during each delivery period in the same proportion as he shares in the milk deliveries in such delivery period: Provided, That if the producers have earned bases separately, one or more of which was earned on another farm, each producer may retain his individual base if application is made in writing to the market administrator postmarked not later than the last day of the first month during which the base is to apply.

(d) When two or more producers holding a joint base cease delivering milk from the same farm, the base may be divided among the producers having an interest in such base by notification in writing to the market administrator postmarked not later than the last day of the month during which the division is to be effective, such notification to specify the terms of division of base and bearing the signature of all interested producers: Provided, That in the event producers do not notify the market administrator of their agreed terms of division of base by letter postmarked not later than the last day of the month during which the division is effective, the market administrator shall divide the base among the producers in the same ratio as they shared in the milk deliveries during the base-making period, or if the base is held in the name of a partnership, it shall be divided equally among the interested producers.

(e) Subject to the provisions set forth in paragraphs (a) and (b) of this section, a producer who discontinues shipping milk to a handler during September, October, or November may transfer to another producer credit for milk deliveries for base making purposes.

§ 907.84 Announcement of established

On or before February 15 of each year the market administrator shall notify each producer and the handler receiving milk from such producer of the base established by such producer.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 907.90 Effective time.

The provisions of this part, or any amendment of this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

§ 907.91 Suspension or termination.

The Secretary shall, whenever he finds that this part, or any provision of this part, obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this part on any such provision of this part.

§ 907.92 Continuing obligation.

If upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such

further acts shall be performed notwithstanding such suspension or termination.

§ 907.93 Liquidation.

(a) Under the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent.

(b) If, upon such liquidation, the funds on hand exceed the amount required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers, in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 907.100 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 907.101 Separability of provisions.

If any provision of this part, or the application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected

Proposed by the Blochowiak Dairy

Proposal No. 2. Amend § 907.10 by deleting the word "nonfluid" under (a) Amend § 907.10 by of the proviso.

Proposed by the Borden Company: Proposal No. 3. Replace § 907.8 with the following:

§ 907.8 Fluid milk plant.

"Fluid milk plant" means any milk plant in which Class I milk is pasteurized or packaged for distribution on a route in the marketing area; Provided, That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as a part of a fluid milk plant pursuant to this section.

Proposal No. 4. Replace § 907.47(b) with the following:

(b) Subtract in sequence from Class III milk, Class III(a) milk, Class IV milk (other than inventory variation and shrinkage of producer milk and other handler's milk), and Class II milk, to the extent of the pounds remaining in such classes, the remaining pounds of 3.5 percent milk equivalent of other source milk

received, and then subtract from Class I the pounds of milk equivalent of the remaining butterfat pounds in such other source milk computed at the average test of Class I milk.

Proposal No. 5. In § 907.41(c) (2) insert after the phrase "dispensers under pressure" the words "flavored milk drinks processed and disposed of as a dietary food product for weight control".

Proposed by the Dairy Division, Agri-

cultural Marketing Service:

Proposal No. 6. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 4920 West Bur-leigh Street, Milwaukee 10, Wisconsin, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., April 19, 1961.

> ROY W. LENNARTSON, Deputy Administrator, Agricultural Marketing Service.

[F.R. Doc. 61-3680; Filed, Apr. 21, 1961; 8:51 a.m.1

[7 CFR Part 927]

[Docket No. AO-71-A40]

MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the New York-New Jersey marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk. United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 20th day after publication of this decision in the Federal Register. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Elmira, New York on February 2-5, 1960, and at Utica, New York, on February 9-12, 1960, pursuant to notices thereof issued October 2, 1959 (24 F.R.

8184), and on January 11, 1960 (25 F.R.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on September 1, 1960 (25 F.R. 8610; F.R. Doc. 60-8291), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. Because of the nature of the exceptions submitted in response to the recommended decision and the extent of the changes deemed necessary to modify the findings and conclusions contained in the September 1, 1960, recommended decision, it is concluded that this further recommended decision should be issued with opportunity for exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the September 1, 1960, recommended decision (25 F.R. 8610; F.R. Doc. 60– 8291) are hereby approved and adopted as if set forth in full herein, subject to the following modifications:

1. Delete from the last sentence of the first paragraph beginning in column 3, 25 F.R. 8611 the phrase "an equitable distribution of returns to producers" and substitute therefor the phrase "uniform prices to producers and associations of producers."

2. Add in the first sentence of the last paragraph beginning in column 1, 25 F.R. 8612, following the words "Bulk tank milk" the phrase, ", like can milk,".

3. Add at the end of the second paragraph beginning in column 2, 25 F.R. 8612, the following: "It was pointed out in the exceptions, however, that producers at certain plants outside the regular supply area, which plants have had a long record of association and regular delivery to the Metropolitan district of the New York-New Jersey marketing area, might be disadvantaged by a shift to bulk tank resulting from the closing of any such plants. To avoid undue hardship in such instances, a revision has been made to enable producers already associated with the market (on the basis of a record of delivery in October, November and December 1960) through such a plant to maintain producer status in bulk tank units without the necessity of meeting the pooling requirements otherwise applicable to bulk tank units originating outside the regular supply area."

4. Insert a comma (,) after the word "recognize" in the third paragraph beginning in column 2, 25 F.R. 8612.

5. Add the following as the last sentence of the fourth paragraph in column 2, 25 F.R. 8612: "The only exception provided to this limitation on the addition of producers to pool bulk tank units is the instance when milk the handler designates as nonpool becomes producer milk under another Federal order issued pursuant to the Act.

Further steps have been taken, as the result of exceptions, to insure that producers whose milk has been included in pool bulk tank units may become producers under another Federal order and have their milk removed from pooling and pricing by the New York-New Jersey order. This has been done to facilitate the flow of available milk supplies to plants and markets where the need for it is greatest."

6. Delete the second paragraph in column 3, 25 F.R. 8612, and substitute therefor the following:

The September 1 recommended decision contained a provision under which a declared nonpool bulk tank unit would become a pool bulk tank unit automatically in any month in which the percentage of milk classified in Class I-A is equivalent to that which would make a plant otherwise nonpool to become a temporary pool plant. Although this provision was intended to parallel existing qualification provisions in the order with respect to pool plants, it is concluded on review that such a provision would nullify the objective of restricting short-run movements in and out of the pool. Therefore, such provision is omitted from this decision.

7. Add as the first paragraph beginning in column 2, 25 F.R. 8613, the following:

Also, in order to insure that nonpool bulk tank milk in New York-New Jersey regulated plants which is delivered to plants or purchasers in other Federally-regulated markets will not be priced at a lower level than pool milk so sold by handlers, and to prevent under-pricing of milk in the other market in terms of its own classified-price plan, the order should be amended to assign such milk to Class III and to assign pool bulk tank milk so delivered insofar as possible to Class I-B.

8. Delete the last three lines of the first paragraph beginning in column 2, 25 F.R. 8613, and substitute therefor "may need further coordination as to the application of order terms where intermarket transactions occur."

9. Delete from the second paragraph beginning in column 2, 25 F.R. 8613, the phrase "The person who operates—received at the farm," and substitute therefor the phrase "The handler or cooperative who directs the tank truck to receive the milk of a farm * * *".

Add in the same paragraph after the words "(2) cooperative associations" the phrase "as defined in the order".

10. Add as the third paragraph beginning in column 2, 25 F.R. 8613, the following:

The September 1 recommended decision provided that any nonoperating cooperative might qualify pool bulk tank units after delivery of 25 percent of the milk in the unit to a pool plant for one month. Review following the exceptions leads to the conclusion that such handlers operating bulk tank units should demonstrate the close and regular association of at least one pool bulk tank unit with the market before obtaining the privilege of expanding operations with respect to farms inside the regular supply area without the requirement of the minimum delivery performance applied to pool bulk tank units originating outside the regular supply area. This change will provide added assurance of regular, responsible delivery perform- however, handlers receiving bulk tank ance by this type of handler. however, handlers receiving bulk tank milk are not making deductions for

11. Delete the last paragraph beginning in column 2, 25 F.R. 8613, and substitute therefor the following:

Issue No. 3. It is concluded that (1) the price at which bulk tank milk is accounted for to the pool should be the minimum class price adjusted for location of the farm (milk house) at which the milk is transferred from the farm tank to a tank truck: (2) payments by handlers directly to individual producers should be based on the zone locations of the farms where bulk tank milk is received by the handlers without deduction for hauling or cost of other service connected with moving the milk from the farm; (3) payment required by handlers to be made to a cooperative association which is the responsible handler and operates the bulk tank route should be at the price reflecting the transportation and direct delivery differentials applicable at the handler's plant where the milk is delivered by such cooperative. Where the cooperative merely elects to report and collect but does not operate the bulk tank route, payment by the handler to the cooperative should be at the price reflecting only the transportation differentials according to location of the farms.

12. Add the following sentence as the last sentence of the second paragraph beginning in column 3, 25 F.R. 8613: "In harmony with this view, direct delivery differentials should no longer be applied to milk delivered to the handler at the farm."

13. Insert in the first line of the second paragraph beginning in column 1, 25 F.R. 8614, after the word "nearby" the word "farm".

14. Delete from the parenthetical phrase in the third paragraph beginning in column 1, 25 F.R. 8614 the words "and direct delivery".

15. Delete the first sentence of the first paragraph beginning in column 2, 25 F.R. 8614 and substitute therefor the following: "A proposal was made that location differentials should depend upon the location of the plant nearest the metropolitan area when delivery is made to more than one plant in the same month."

16. Delete from the first sentence of the last paragraph beginning in column 2, 25 F.R. 8614, the words "to first plant" and substitute therefor the words "to zone pricing point".

17. Delete the second and third paragraphs in column 3, 25 F.R. 8614, in their entirety and substitute therefor the following:

The recommended decision of September 1, 1960, provided for a "tank truck service charge" up to 20 cents per hundredweight which could be negotiated by handler and producer. Up to this amount could be deducted from the f.o.b. farm price received by the bulk tank producer to compensate the handler for picking up milk which because of poor road conditions, low volume, topography or other reasons might be left without an outlet. Under present conditions,

however, handlers receiving bulk tank milk are not making deductions for hauling or other service in picking up such milk at the farm. The record does not demonstrate the need for a service charge at this time to insure the delivery of any milk currently in bulk tanks. Rather, the customary situation is that the f.o.b. farm price for bulk tank milk is not less than the plant price for can milk at a similar zone location.

Three of the four qualified cooperative groups in the market each supported the omission of a tank truck service charge. It must be presumed, of course, that in taking this position these cooperatives are prepared to handle the milk in the event some producers' milk becomes unattractive for pick-up by the regular handler. In view of the prevailing payment practices relating to bulk tank milk as shown by the record and the position taken by a large segment of the producers, it should not be presumed at the outset of f.o.b. farm pricing of bulk tank milk that producers will have difficulty marketing their milk unless handlers are permitted to bargain for service charges. A hearing can be held to determine whether a charge should be set if situations develop in the future where some individual producers find difficulty in maintaining outlets because of the particular location of their farms, poor road conditions or other circum-

Rulings on exceptions. Certain exceptions filed herein relate to the propriety of the participation by officials of the Office of Milk Industry of the State of New Jersey. The Secretary ruled upon this matter adversely to the excepting party on July 6, 1956, in the amendment proceeding AMA Docket No. AO-71-A32, AO-284 and again on September 12, 1958, in the amendment proceeding AO-71-A37. Both of these rulings are a matter of record. The exceptions involved here are not materially different, either in basis or circumstance, from the questions ruled upon by the Secretary in the above referred to proceedings. The exceptions having been considered in the light of this record in this proceeding and the prior rulings of the Secretary, said exceptions are hereby denied for the reasons stated in the prior rulings of the Secretary.

Exception was taken to the revision in the application of direct delivery differentials. The exception contends that evidence thereon was improperly received at the hearing because of lack of notice that the direct delivery differential provisions would be reviewed. It is inherent that any plan for changing the point of pricing of milk to handlers would involve consideration of the continued propriety of the past application of direct delivery differentials which, in conjunction with the schedule of transportation differentials set forth in the order, establish the location value of milk. It is not contended by exceptors that the revised plan for changing the point of pricing and pooling of bulk tank milk should not be adopted for lack of notice, although any such plan examined without concurrent review of the direct

delivery differentials would be only partially weighed. In these circumstances the notice adequately defined and described the scope of the subject to be considered. The exception as to notice therefore is overruled.

In arriving at the findings and conclusions, and the regulatory provisions of this recommended decision, each exception received to the prior recommended decision was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions and regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this recommended decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing

has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the New York-New Jersey marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 927.6 and substitute therefor the following:

§ 927.6 Producer.

"Producer" means any dairy farmer whose milk is delivered at the farm into a tank mounted on a truck or trailer for

a handler who has included such farm in a pool bulk tank unit, or any dairy farmer whose milk is delivered directly from farm to pool plant but is not put into a tank truck prior to such delivery: Provided, That milk delivered by a dairy farmer shall not be considered to be delivered by a producer (a) if such milk is delivered by other than tank truck direct to a nonpool plant or is delivered in bulk at the farm to a handler who does not include such farm in a pool bulk tank unit of such handler, or (b) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order issued pursuant to the Act and all of the milk in such pool plant which would otherwise be considered producer milk under such other order is assigned to Class III, or (c) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order and any such milk assigned to Class I-A or Class II would be subject to the rates specified in § 927.83(b)(2), or (d) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order and any such milk assigned to Class I-A or Class II would be priced at the lowest class price under such other order, (e) if such milk is delivered by a bulk tank unit direct to a nonpool plant and such milk is defined as producer milk under another order issued pursuant to the Act, or (f) during any of the months of December through June if any milk of such dairy farmer were delivered as producer milk under another order issued pursuant to the act during any of the preceding months of July through November.

2. Amend that portion of § 927.7 preceding paragraph (b) to read as follows:

§ 927.7 Handler.

"Handler" means (a) any person who engages in the handling of milk or products therefrom, which milk was received at a pool plant, at a farm included in a pool bulk tank unit, or at a plant approved by any health authority as a source of milk for the marketing area:

- 3. Amend § 927.7(c) to read as follows:
- (c) Any cooperative association with respect to milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association receives payment.
- 4. Add a new § 927.11 to read as follows:

§ 927.11 Farm.

"Farm" means the production facilities and resources supplying milk to a milk house of a dairy farmer. The location of the farm shall be deemed to be the same as the location of the milk house, and in the event of a change in the location of the dairy farmer's milk house, any question as to whether milk received from the new milk house is from the same or a different farm shall be determined by the market administrator.

5. Add a new § 927.12 to read as follows:

§ 927.12 Pool bulk tank unit.

"Pool bulk tank unit" means a bulk tank unit established pursuant to § 927.24 and which meets the requirements of a pool bulk tank unit pursuant to such section.

6. Change the center heading "Pool Plants" to "Pool Plants and Bulk Tank Units" and add a new § 927.24 as follows:

§ 927.24 Bulk tank units.

Any handler receiving milk at farms in a tank truck shall establish such farms in one or more bulk tank units, each consisting of one or more farms, in accordance with provisions of this section. Any handler who receives milk at a pool plant or a plant distributing milk in the marketing area which is delivered from a farm to such plant in a tank truck shall be deemed to have received such milk from a bulk tank unit, pooled or nonpool, and any handler who receives bulk milk from a farm in a tank truck containing pool bulk tank milk shall be deemed to have received such milk from a farm of a bulk tank unit either pool or nonpool.

(a) Handlers who may establish, maintain and be responsible for pool bulk tank units are as follows:

(1) A handler who operates a pool

(2) A cooperative handler who does not operate a plant but who receives milk from farms in a tank truck and delivers such milk to plants of other handlers: Provided, That such cooperative must meet the definition of a cooperative set

forth in § 927.81(a) (1).

(b) The handler may establish the bulk tank units in any manner chosen by him, subject to the following limitations:

(1) Each bulk tank unit shall have a headquarters where the basic record of receipts and butterfat tests of milk from each farm are maintained and where there is maintained the basic record of each receipt and each delivery of milk by each tank truck receiving milk from farms of the bulk tank unit and related details with respect to the movement of such milk.

(2) Each bulk tank unit shall be given a name indicating the general geographic area in which farms comprising such

bulk tank unit are located.

(3) The handler shall declare whether each bulk tank unit is to be operated as a pool bulk tank unit or a nonpool bulk tank unit. Farms from which the milk is to be pooled shall be established in a separate unit from those which are not to be pooled.

(4) Farms in the area specified in paragraph (e) of this section shall be in units separate from farms in the area specified in paragraph (f) of this section.

(c) A handler may declare that a bulk tank unit is to be operated as a pool bulk tank unit and may add a farm to a pool bulk tank unit at any time except as set forth in subparagraphs (1) through (5) of this paragraph.

(1) The milk of such unit or farm must be delivered to a pool plant on the first day on which it is to be pooled and be under full approval for fluid use by the health authority or authorities approving such plant.

(2) If the unit is a declared nonpool bulk tank unit or if the farm is a part of a declared nonpool bulk tank unit of such handler, the unit or farm may be changed to a pool status only beginning the first day of a month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(3) In the period of December through June, no new pool bulk tank unit may be established, no nonpool bulk tank unit may be declared to be a pool bulk tank unit, and no farm may be added to a pool bulk tank unit if the handler caused, as specified in paragraph (d) of this section, any pool bulk tank unit or any farm of a pool bulk tank unit to become nonpool in the period of July through November immediately preceding: Provided. That this limitation shall not prevent the handler from including in a pool bulk tank unit a farm which for the first time has converted from can delivery to bulk tank delivery and from which the handler received as pool milk all milk delivered by such farm in cans for a period of 30 days immediately preceding: Provided further, That except in the case set forth in paragraph (d)(3) of this section, this subparagraph shall not be applicable if the farm which is caused to become nonpool thereby becomes a producer farm under another order with a market-wide pool issued pursuant to the Act.

(4) No farm which was caused to become nonpool may be made a part of a pool bulk tank unit by a handler set forth in subdivisions (i) through (iv) of this subparagraph until after the passage of a complete April-May-June period following the time such farm was

caused to become nonpool:

(i) The handler who caused the farm to become nonpool.

(ii) The handler or other person who received the milk as nonpool milk.

(iii) A handler who is substantially under the same management, control, or ownership as the handler or other person set forth in subdivision (i) or (ii) of this subparagraph.

(iv) A handler who receives the milk through arrangement with the handler or other person set forth in subdivisions (i), (ii), or (iii) of this subparagraph.

- (5) A handler may transfer a farm from one pool bulk tank unit to another of his pool bulk tank units on the first day of any month upon notice to the market administrator by not later than the 10th day of such month.
- (d) A handler may cause a pool bulk tank unit or a farm which is a part of a pool bulk tank unit to become nonpool by the methods set forth in subparagraphs (1) through (4) of this paragraph: Provided, That the failure of a bulk tank unit to meet the pool requirements set forth in paragraph (f) of this section shall not be considered for purposes of this paragraph to be a change of pool status caused by the handler.
- (1) The handler may change the status of a declared pool bulk tank unit to a declared nonpool bulk tank unit ef-

fective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following

(2) The handler may transfer a farm from a pool bulk tank unit to a nonpool bulk tank unit effective the first of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(3) The handler may so operate a bulk tank unit located in the area specified in paragraph (e) of this section that its pool status is cancelled pursuant

to § 927.27.

(4) The handler may arrange for the milk of a farm in his pool bulk tank unit to be delivered to another person as nonpool milk. Any delivery of milk by a farm in a handler's pool bulk tank unit to another person as nonpool milk shall be considered to have been arranged by such handler unless such handler can establish that such other person is not substantially under the same management, control, or ownership as such handler and that such handler was in no way a party to such nonpool delivery.

(e) A declared pool bulk tank unit must be operated to meet the require-ments set forth in § 927.26 if the farms of such unit are located in the following area: New York; New Jersey; the counties of Addison, Rutland, and Bennington in Vermont; the county of Berkshire in Massachusetts; or in Pennsylvania outside the counties of Adams, Bedford, Berks, Blair, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin. Montgomery, Montour, Northumberland. Perry, Philadelphia, Schuylkill, Snyder, Union, and York. Failure to meet such requirements shall make such declared pool bulk tank unit subject to suspension and cancellation pursuant to the procedure set forth in § 927.27. This paragraph shall not be applicable to a cooperative handler specified in paragraph (a) (2) of this section until such handler has operated a pool bulk tank unit for 12 consecutive months. Any handler who in the period of October, November, and December 1960 operated a plant which was a pool plant on the basis of either of the first two provisos in § 927.25 and who establishes a pool bulk tank unit made up of farms outside of the area set forth in this paragraph, which pool bulk tank unit is exempt from the requirements of paragraph (f) of this section; must operate such bulk tank unit to meet the requirements set forth in § 927.26.

(f) A declared pool bulk tank unit made up of farms located outside the area specified in paragraph (e) of this section or a declared pool bulk tank unit made up of farms specified in paragraph (e) and operated by a cooperative handler specified in paragraph (a) (2) of this section until such handler has operated a pool bulk tank unit for 12 consecutive months, shall be a pool bulk tank unit

in the months of July through March if at least 25 percent of the milk in such bulk tank unit is delivered in such month to pool plants, and shall be a pool bulk tank unit in the months of April through June only in 60 percent of the milk of such unit was received at pool plants during the period of October through December immediately preceding or if such handler received no milk of such unit from farms of such unit in the preceding October through December: Provided, That any handler who, during the period October, November, and December 1960, operated a plant which was a pool plant on the basis of either of the first two provisos in § 927.25 may establish one or more pool bulk tank units made up of farms located outside the area specified in paragraph (e) of this section if milk from such farms was delivered as producer milk in the period of October, November, and December 1960 to a pool plant of such handler designated pursuant to § 927.25 and such units shall be exempt from the provisions of this paragraph. Farms may be added to such bulk tank units if such farms delivered milk in the period October, November, and December 1960 to a pool plant of such handler designated pursuant to § 927.25 and if such farms were not caused pursuant to paragraph (d) of this section to become nonpool subsequent to the effective date of this provision. Any pool bulk tank unit established pursuant to this proviso shall be required to meet the conditions set forth in this paragraph to be a pool bulk tank unit at any time subsequent to a time when the handler causes such bulk tank unit to become nonpool pursuant to paragraph (d) of this section.

(g) Any bulk tank unit declared to be a pool bulk tank unit shall be designated a pool bulk tank unit in any month (1) if the handler is qualified in such month pursuant to paragraph (a) of this section, (2) if such bulk tank unit meets all the requirements of this section applicable to it to be a pool bulk tank unit, or (3) if the designation of such bulk tank unit has not been cancelled pursuant to

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- (h) Each handler shall report to the market administrator, not later than the 20th day of the month in which this paragraph becomes effective, the name and headquarters of each bulk tank unit established by him, the identification of the farms included in each unit, and his declared status (pool or nonpool) of each bulk tank unit. Thereafter, each handler shall report by not later than the 10th day of the month any changes in bulk tank units during the preceding month and as of the first day of such month.
- (i) Whenever the market administrator finds that a handler has received bulk tank milk from a farm required to be included in an established bulk tank unit but which has not been so included, he shall tentatively assign such farm to a bulk tank unit and promptly notify the handler of such action. Unless otherwise requested by the handler within 10 days of such notice, the tentative assignment by the market administrator will become final.

(j) Whenever the market administrator finds that a handler has caused milk to become nonpool pursuant to paragraph (d) (4) of this section he shall promptly notify the handler of such findings. Within 10 days of such notice the handler may (1) make a written claim that the failure to include the milk involved as pool milk was an error and, in such event, the market administrator shall pool such milk and rescind his finding, or (2) make a written offer to submit proof that he had not caused such milk to become nonpool. In the latter event, the market administrator shall examine such proof and shall either rescind his original finding or confirm it. Failure to respond to the market administrator's notice shall be deemed to confirm the finding.

(k) The market administrator shall publicly announce the names of handlers establishing pool bulk tank units and the names and headquarters of such bulk tank units. He shall also publicly announce any change in the pool status of such bulk tank units, and the names of handlers who are ineligible to add farms to a pool bulk tank unit under the terms

set forth in § 927.24(c)(3).

7. Amend that portion of § 927.26 preceding the proviso in paragraph (b) to read as follows:

§ 927.26 Operating requirements.

The person operating a pool plant designated pursuant to §§ 927.25 or 927.-28 or a declared pool bulk tank unit consisting of farms in the area specified in § 927.24(e) shall meet each of the following requirements:

(a) Be willing to dispose of as Class I-A milk in the marketing area milk received at the plant or on the bulk tank

unit from dairy farmers.

(b) Keep such control over the sanitary conditions under which milk received at the plant or on the bulk tank unit is produced and handled that the milk can meet the requirements of a source of milk for the marketing area.

§ 927.27 [Amendment]

8. Amend § 927.27 by inserting after the section reference "927.28" in the first sentence thereof the words "or of a declared pool bulk tank unit consisting of farms in the area specified in § 927.24 (e)".

9. Amend § 927.27(c) by inserting the words "or bulk tank unit" immediately after the word "plant" wherever such

word appears.

10. Amend § 927.27(d) to read as follows:

(d) In the case of suspension pursuant to this section of the designation of one or more plants or bulk tank units for failure to meet the requirements of \$927.26 (a) or (c), the handler operating such plant or bulk tank unit may select, prior to the effective date of such suspension, one or more other pool plants or pool bulk tank units consisting of farms in the area specified in \$927.24(e) for suspension in lieu thereof if, during the preceding month, the quantity of milk received from producers at such substituted plants or bulk tank

units was not less than the quantity of milk received from producers at the plants or bulk tank units named for suspension. The handler may also select the order in which plant or bulk tank unit designations are to be cancelled in the event of a later determination by the Secretary cancelling the designation of some but not all of the plants or bulk tank units suspended.

11. Amend § 927.27(e) by adding the words "or bulk tank unit" immediately after the first word "plant" and deleting the words "of the plant as a pool plant" immediately after the second word "designation".

12. Amend § 927.27(f) by inserting the words "or bulk tank unit" immediately after the first word "plant" and inserting the words "or pool bulk tank unit" immediately preceding the proviso.

13. Add the words "or the bulk tank unit meets the requirements of § 927.24 (g)" in the parenthetical phrase of the proviso of § 927.27(f) immediately after the section reference "927.29".

14. Amend § 927.27(g) by adding the words "or pool bulk tank unit" immediately after the first word "plant".

15. Amend § 927.27(g) (1) and (2) by adding the words "or pool bull tank units consisting of farms in the area specified in § 927.24(e)" immediately after the section reference "927.28".

16. Amend § 927.27(g) (3) by adding the words "or bulk tank unit" after each of the words "plant" appearing before the proviso, deleting the words "pool plant" in the proviso, and adding the words "or bulk tank unit" after the second word "plant" in the proviso.

17. Amend § 927.27(h) by adding "or pool bulk tank unit" after the first word

"plant".

18. Amend § 927.27(h) (1) and (2) by adding the words "or pool bulk tank unit" after the first word "plant", adding the words "bulk tank unit" after the second word "plant", and deleting the words "at all pool plants".

19. Amend § 927.27(h) (3) by adding the words "or bulk tank unit" after the first word "plant", adding the words "or pool bulk tank unit" after the second word "plant", and deleting the words "of such plant" after the word

"designation"

20. Amend § 927.27(h) (4) by adding the words "or bulk tank units" after the first word "plants" and adding the words "and pool bulk tank units" after the second word "plants".

§ 927.29 [Amendment]

21. Amend § 927.29(a) by adding the words "and bulk tank units" after the words "dairy farmers" and adding the following proviso: "Provided, That at the option of the handler the plant shall not be a pool plant if less than 25 percent of such milk from other than pool bulk tank units is classified in Class I-A."

22. Amend § 927.29(b) by adding the words "or bulk tank units" after the first words "dairy farmers", adding the words "and bulk tank units" after the words "dairy farmers" where they appear the second and third times, and adding the following proviso: "Provided, That at the option of the handler the

plant shall not be a pool plant if less than 10 percent of such milk from other than pool bulk tank units is classified in Class I-A."

23. Amend § 927.29(c) by adding the words "and bulk tank units" after the

words "dairy farmers".

24. Amend § 927.29(d) by adding the words "and bulk tank units" after the words "dairy farmers" appearing before the first proviso, and by adding the words "and bulk tank units" after the word "farmers" wherever such word appears in the second proviso.

§ 927.30 [Amendment]

24a. Amend § 927.30 by deleting the first word "all" and substituting therefor the phrase "all milk received from producers, all milk intermingled with milk from producers, and all"; add after the word "plant" as it last appears in such section the words "or tank truck".

25. Delete that portion of § 927.33 preceding the proviso prior to paragraph (a), and substitute the following:

§ 927.33 Plant or tank truck at which classification is to be determined.

Classification shall be determined at the plant at which milk is received from dairy farmers or from bulk tank units, except that milk received in a tank truck at farms which is not delivered to a plant shall be classified in accordance with the form in which it is moved from the tank truck.

26. Amend § 927.33(b) by adding the words "or bulk tank units" immediately after the words "dairy farmers".

§ 927.34 [Amendment]

27. Amend § 927.34 by adding the words "or bulk tank unit operation" after the words "plant operation".

§ 927.35 [Amendment]

28. Amend § 927.35(a) by adding the words "pool bulk tank units" after the first words "pool plants" and adding, in the proviso, the words "or from pool bulk tank units" immediately before the words "shall be assigned".

29. Amend § 927.35(a) (1) by adding the words "or bulk tank units" after the

words "dairy farmers".

30. Amend § 927.35(a) (2) by adding a new subdivision (v) to read as follows:

- (v) Milk received from declared pool bulk tank units.
- 31. Amend § 927.35(b) to read as follows:
- (b) After the assignments prescribed in (a) of this section, milk from pool plants, from pool bulk tank units, or from producers shall be assigned as far as possible to Class I-B where such classification is based upon delivery to a plant or purchaser in a marketing area defined in another order issued pursuant to the Act in the sequence set forth in subparagraphs (1) through (3) of this paragraph: Provided, That if the plant (at which assignment is being made) is a pool plant, milk classified and priced under another order shall be assigned to such Class I-B in the marketing area defined pursuant to such other order prior to the assignment otherwise specified in this paragraph.

regulated by an order with individual-

handler pools.

(2) Class I-B milk in the marketing area defined in Part 1019 of this Chapter or to a pool plant pursuant to such Part, and

(3) Class I-B milk in other marketing areas.

32. Renumber § 927.35 (c), (d), (e) (f), and (g) to (d), (e), (f), (g), and (h), respectively, and add a new § 927.35 (c) to read as follows:

(c) After assignments prescribed in paragraphs (a) and (b) of this section, milk from pool bulk tank units, shall be assigned as far as possible to Class I-B milk. Milk received from nonpool bulk tank units shall be assigned as far as possible to milk classified as Class III subject to the butter-cheese adjustment and then to other milk classified as Class

33. Amend new § 927.35(d) by changing the paragraph references from "(a) and (b)" to "(a), (b), and (c)"

34. Amend new § 927.35(e) by changing the paragraph references to read "(a) through (d)"; by adding the words "from pool bulk tank units" immediately after the first words "from producers"; and adding the words "from nonpool bulk tank units" after the words "not producers"

35. Amend new § 927.35(f) by changing the paragraph references to read '(a) through (e)"; by adding the words "from pool bulk tank units" after the words "from producers"; and adding the words "from nonpool bulk tank units" after the words "not producers".

§ 927.36 [Amendment]

36. Amend § 927.36 by adding a third proviso immediately prior to paragraph (a) to read as follows: "Provided further, That if the market administrator finds it necessary to promulgate formal rules with respect to bulk tank units, he shall follow the procedure set forth in this section."

§ 927.37 [Amendment]

36a. Add after the word "plant" in both the opening sentence of § 927.37 and in paragraph (a) thereof the words "or tank truck;" add after the word "plant" as it first appears in § 927.37(b) the words "or tank truck"; and add after the word "plant" as it first appears in § 927.37(d) (4) the words "or tank

§ 927.40 [Amendment]

37. Amend § 927.40 by deleting the second sentence thereof and substituting therefor the following: "Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler but which does not operate the plant or the bulk tank unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments

(1) Class I-B milk in a marketing area set forth in §§ 927.41 through 927.44 and § 927.71(c) applicable at the location where the milk is received from producers. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler and which operates the plant or the bulk tank unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 927.41 through 927.44 and § 927.71(c) applicable at the plant at which the milk is first received."

38. Amend § 927.42 preceding the table to read as follows:

§ 927.42 Transportation differentials.

The class prices set forth in § 927.40 and the fluid skim differential set forth in § 927.44 shall be subject to a transportation differential determined in accordance with paragraphs (a) through (d) of this section.

(a) The market administrator shall determine a freight zone for each pool plant and for each plant at which milk or milk products subject to the provisions of §§ 927.83 and 927.84 is received from dairy farmers or is first found. Such freight zone shall be the shortest highway mileage from the plant to the nearest of the following points as computed by the market administrator from data contained in Mileage Guide No. 5, without supplements, issued on July 20, 1949, effective August 21, 1949, by the Household Goods Carriers' Bureau Agent, Washington, D.C.: Mount Vernon or Yonkers in the State of New York, Tenafly, Glen Ridge, East Orange, Elizabeth, Hackensack, Hillside, Irvington. or Passaic in the State of New Jersey. The freight zone for plants located in New York City, Nassau, and Suffolk Counties in the State of New York, or in Essex, Hudson, and Union Counties in the State of New Jersey shall be in the 1-10 mile zone. The market administrator shall publicly announce the freight zones for pool plants.

(b) The market administrator shall determine and publicly announce a freight zone for each minor civil division (township, borough, incorporated village, or city) within the nearby differential area or in which farms included in a pool bulk tank unit are located by computing the shortest highway mileage distance from the nearest point in the minor civil division to the nearest point specified in paragraph (a) of this section, using the mileage guide specified in such paragraph supplemented by United States Geological Survey maps. In states where the smallest governmental unit except for incorporated cities or villages is the county, a zone for the county shall be determined in the same manner as for minor civil divisions. The zone for each farm shall be the zone of the minor civil division or county in which the farm is located.

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

§ 927.42 [Amendment]

39. Amend § 927.42 by adding the following paragraph after the table therein:

(d) The differential rate applicable to each pool bulk tank unit shall be computed each month as follows: multiply the volume of milk received from farms in each zone by the rate for that zone as set forth in the schedule in paragraph (c) of this section, add the resulting values for all zones of the bulk tank unit, divide such sum by the total volume of milk received by the bulk tank unit and round to the nearest 0.1 cent. Rates shall be computed separately for columns B and C of such schedule.

§ 927.43 [Amendment]

40. Amend § 927.43 by deleting that portion thereof beginning with the second proviso and substituting therefor the following: "Provided further, That if such milk is received from producers at a plant or in a bulk tank unit with a minus Class III transportation differential of more than four cents, there shall be deducted from the amount so credited an amount computed by multiplying the volume of such milk by a rate per hundredweight equal to the amount by which the Class III differential for the plant or bulk tank unit exceeds four cents. respect to each plant or bulk tank unit at which milk received from producers is reported by the handler to have been utilized (either at the plant where received or at another plant), in an amount exceeding an average of 4,000 pounds per day in the manufacture of butter or of Cheddar, American Cheddar, Colby, washed curd, or part skim Cheddar cheese, the market administrator shall publicly disclose (a) the location of the plant at which the milk was received from producers or the name of the bulk tank unit, and (b) the name of the handler operating such plant or bulk tank unit. Such public disclosure shall be made monthly on the basis of handlers' monthly reports, and may be made more frequently on the basis of such other utilization reports as may be required by the market administrator."

§ 927.50 [Amendment]

41. Amend the first sentence in § 927.50 by adding the words "at each of his pool bulk tank units" after the words "pool plants"; at the end of the second sentence in § 927.50 replace the period(.) with a comma (,) and add the following phrase "except that the report of a pool plant which receives milk from bulk tank units but not direct from producers shall be submitted at a time specified by the market administrator.'

42. Amend § 927.50(a) by adding the words "from bulk tank units" after the

words "dairy farmers"

43. Amend § 927.50(b) by adding the words "or bulk tank unit" after the words "plant" in each of the places where such words appear.

§ 927.53 [Amendment]

43a. In § 927.53(a) add the words "or nonpool bulk tank units" after the word "plants" as it last appears in such paragraph.

44. Amend § 927.53(d) by adding the words "and pool bulk tank units" after the word "plant".

§ 927.65 [Amendment]

45. Amend § 927.65(a) by adding at the end thereof the words "or pool bulk tank unit;".

46. Amend § 927.65(c) by adding the words "or bulk tank unit" after the word "plant" in each place where such word appears.

47. Amend § 927.65(d) to read as

follows:

- (d) Deduct, in the case of each plant or bulk tank unit nearer than the 201–210-mile zone, and add, in the case of each plant or bulk tank unit farther than the 201–210-mile zone, the sum obtained by multiplying the milk received from producers at plants by the zone differential set forth in column B of the schedule in § 927.42(c) applicable at the plant, and for milk in bulk tank units, by the weighted average column B differential computed pursuant to § 927.42(d) applicable to the bulk tank unit.
- 48. Amend § 927.65(g) to read as follows:
- (g) add together the handler's net pool obligation for all plants and bulk tank units.

§ 927.70 [Amendment]

49. Amend § 927.70 by adding after the first proviso therein the following: "Provided further, That for milk received in a bulk tank unit there may be no charge to the producer for service incident to moving the milk off the farm if such charge reduces the net price to the farmer below that specified in this section."

§ 927.71 [Amendment]

50. Amend § 927.71(a) by changing the section reference from "927.42" to "927.42(c)" and adding to the paragraph (a) the following: "or, in the case of bulk tank units, the zone of the farm at which the milk is received."

51. Amend § 927.71(b) (1) preceding

the proviso to read as follows:

- (1) A zone for each farm within the nearby differential area shall be computed as specified in § 927.42(b):
- 52. Amend § 927.71(c) by changing that portion preceding the table to read as follows:
- (c) Direct delivery differentials. For milk received from producers, and from cooperative associations pursuant to § 927.24(a) (2), at plants located in the areas specified in the following table, the handler shall pay, in addition to that required by other provisions of this section, the amounts set forth below:

§ 927.83 [Amendment]

52a. Add at the end of the caption of § 927.83 the words "and nonpool bulk tank units."

53. Amend § 927.83(a) (1) to read as follows:

(1) It was derived from milk received at a plant or at farms in a bulk tank unit from dairy farmers not defined as

producers pursuant to § 927.6 or received from a handler designated as a producer-handler pursuant to § 927.15.

54. Amend § 927.83(b) (2) by deleting that portion prior to the words "is not regulated" and by substituting the following: "If the first plant which received the milk from which the milk or milk product is derived is located in the 401–425 mile zone or in some zone nearer the marketing area, and the handling of such milk * * *".

55. Amend § 927.83(b) (3) by deleting that portion prior to the words "is not regulated", and by substituting the following: "If the first plant which received the milk from which the milk or milk product is derived is located farther from the marketing area than the 401-425-mile zone, and the handling of such milk * * *".

§ 927.90 [Amendment]

56. Amend § 927.90 by adding the words "or at farms in a bulk tank unit" after the first word "plants".

Issued at Washington, D.C., April 19, 1961.

ROY W. LENNARTSON, Deputy Administrator.

[F.R. Doc. 61-3681; Filed, Apr. 21, 1961; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 140]

FINANCIAL PROTECTION REQUIRE-MENTS AND INDEMNITY AGREE-MENTS

Notice of Proposed Rule Making

The following proposed amendments are intended to establish the form of indemnity agreement which the Commission will execute with Federal agencies and non-profit educational institutions subject to Part 140. Except for changes made because Federal agencies and non-profit educational institutions are not required to furnish financial protection, the forms of these proposed indemnity agreements are similar to those adopted by the Commission for execution with licensees who furnish financial protection.

Publication of these proposed indemnity agreements has been delayed pending adoption of forms of indemnity agreements to be entered into with licensees who furnish financial protection. The forms of indemnity agreements which the Commission will execute with such licensees are set forth in a notice of rule-making published in this issue of

the FEDERAL REGISTER.

Notice is hereby given that the Commission is considering adoption of the following amendments. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington 25, D.C., within sixty days after publication of this notice in the Federal Register. Comments received after that period will be considered if it is practicable to do so, but as-

surance of consideration cannot be given except as to comments filed within the period specified.

1. Amend § 140.52 to read as follows:

§ 140.52 Indemnity agreements.

(a) The Commission will execute and issue agreements of indemnity with each Federal agency subject to this subpart pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate

the nuclear reactor involved;

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor.

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

(b) (1) The general form of indemnity agreement to be entered into with licensees subject to this subpart is contained in § 140.78 Appendix D.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this subpart shall contain such modifications of the form in \$ 140.78, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this subpart shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

2. Section 140.72 is amended to read as follows:

§ 140.72 Indemnity agreements.

(a) The Commission will execute and issue agreements of indemnity with each non-profit educational institution subject to this subpart pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved;

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor.

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

(b) (1) The general form of indemnity agreement to be entered into with licensees subject to this subpart is contained in § 140.79 Appendix E.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this subpart shall contain such modifications of the form in § 140.79 Appendix E, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this subpart shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

3. The following Appendix D is added:

§ 140.78 Appendix D.

This indemnity agreement #____ is entered into by and between the _____ (hereinafter referred to as the "licensee") and the United States Atomic Energy Com-(hereinafter referred to "Commission") pursuant to subsection 170 c. of the Atomic Energy Act of 1954, as amended, (hereinafter referred to as "the Act").

ARTICLE I

As used in this agreement,
1. "Nuclear reactor," "by product material," "person," "source material," and
"special nuclear material" shall have the rial." meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission.

2(a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.

(b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive or other hazardous properties

i. The radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under subsection 170 c or k of the Act and so discharged or dispersed from "the location" as defined in any such other agreement, or

ii. The radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

3. "In the course of transportation" means in the course of transportation within the United States, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or

temporary storage incidental thereto;
(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage incidental thereto;

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to

subsection 170 c or k of the Act.
4. "Person indemnified" means the licensee and any other person who may be liable for public liability.

5. "Public liability" means any legal li-ability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims arising out of an act of war.

6. "The location" means the location described in Item 3 of the Attachment hereto.

7. "The radioactive material" means source, special nuclear, and byproduct matemeans rial which (1) is used or to be used in, or is irradiated or to be irradiated by, the nuclear reactor or reactors subject to the license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s)

8. "United States" when used in a geographical sense include all Territories possessions of the United States, the Canal Zone and Puerto Rico.

ARTICLE II

1. The Commission undertakes and agrees to indemnify and hold harmless the licensee and other persons indemnified, as their in-

terest may appear, from public liability.
2. With respect to damage caused by a nuclear incident to property of any person legally liable for the nuclear incident, the Commission agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligations of the Commission under this paragraph 2 does not apply with respect to:

(a) Property which is located at the location and used in connection with the licensee's possession, use or transfer of the radioactive material;

(b) Property damage due to the neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident;

(c) If the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle and containers used in such transportation:

(d) The radioactive material.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for public liability.

4. With respect to a common occurrence, the obligations of the Commission under this Article shall apply only with respect to such public liability such damage to property of persons legally liable for the nuclear incident (other than such property described in the proviso to paragraph 2 of this Article) and to such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed whichever of the following is lower: (1) The sum of the amounts of financial protection established under all applicable agreements; or (2) \$60,000,000. As used in this paragraph "applicable agreements" means each agreement entered into by the Commission pursuant to subsection 170c of the Act in which agreement the nuclear incident is defined as a "common occurrence.

5. The obligations of the Commission under this agreement shall apply only with respect to nuclear incidents occurring during the term of this agreement.

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed \$500,000,000 with respect to any nuclear incident.

7. Bankruptcy or insolvency of any person indemnified or of the estate of any person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE III

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the li-censee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval

of the Commission.

ARTICLE IV

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE V

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VI

The terms of this agreement shall commence as of the date and time specified in Item 4 of the attachment and shall terminate at the time of expiration of that license specified in Item 2 of the Attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or any obligation the Commission under this agreement with respect to any nuclear incident occurring during the term of this agreement.

UNITED STATES ATOMIC ENERGY COMMISSION

Indemnity	Agreement	No.	 	
Attach	ment			

tem	1—Licensee				
	Address				
tem	2-License	number	or num	bers	
tem	3-Location				

PROPOSED RULE MAKING

Item 4—The indemnity agreement designated above, of which this Attachment is a part, is effective as of ____ m., on the ____ day of _____, 19__.

For the United States Atomic Energy Com-

For the _____(Name of licensee) Ву _____

Dated at Germantown, Md., the __ day of _____, 19__.

4. The following Appendix E is added:

§ 140.79 Appendix E.

This indemnity agreement ____ is en-"Commission") pursuant to subsection 170k of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the

ARTICLE I

As used in this agreement,

As used in this agreement,

1. "Nuclear reactor," "byproduct material," "person," "source material," and
"special nuclear material" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations

issued by the Commission.

2(a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.

(b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out or resulting from the radioactive, toxic,

explosive or other hazardous properties of i. The radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under sub-section 170 c or k of the Act and so dis-charged or dispersed from "the location" as defined in any such other agreement; or

ii. The radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

3. "In the course of transportation" means in the course of transportation within the United States, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or tem-

porary storage incidental thereto;
(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage incidental thereto:

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170 c or k of the Act.

"Person indemnified" means the licensee 4. and any other person who may be liable for

public liability.

5. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Act of employees of persons indemnified who are employed at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims

arising out of an act of war.
6. "The location" means the location described in Item 3 of the Attachment hereto.

7. "The radioactive material" means source, special nuclear, and byproduct material which (1) is used or to be used in, or is irradiated or to be irradiated by, the nuclear reactor or reactors subject to the license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s).

8. "United States" when used in a geo-graphical sense includes all Territories and possessions of the United States, the Canal

Zone and Puerto Rico.

ARTICLE II

1. Any obligations of the licensee under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability shall not in the aggregate exceed \$250,000 with respect to any nuclear incident.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the nuclear incident, the Commission agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligation of the Commission under this paragraph 2 does not apply with respect to:

(a) Property which is located at the location and used in connection with the licensee's possession, use or transfer of the

radioactive material;

(b) Property damage due to the neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident;

(c) If the nuclear incident occurs in the course of transportation of the radioactive material, the transporting vehicle and containers used in such transportation;

(d) The radioactive material.

The obligation of the Commission under this paragraph 2 does not apply to property damage due to neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for

public liability.

4 (a) The obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident (other than such property described in the proviso to paragraph 2 of this Article) and such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed \$250,000.

With respect to a common occurrence, the obligations of the Commission under

this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident (other than such property described in the proviso to paragraph 2 of this Article) and to such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed whichever of the following is lower: (1) Sum of the amounts of financial protection established under all applicable agreements; or (2) \$60,000,000. As used in this paragraph, "applicable agreements" means each agreement entered into by the Commission pursuant to subsection 170c of the Act in which agreement the nuclear incident is defined as a "common occurrence".

5. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed \$500,000,000 with respect to any nuclear incident.

6. If the licensee is immune from public liability because it is a state agency, the Commission shall make payments under this agreement in the same manner and to the same extent as the Commission would be required to do if the licensee were not such a state agency.

7. Obligations of the Commission under this Article, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE III

1. When the Commission determined that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval

of the Commission.

ARTICLE IV

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE V

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VI

The term of this agreement shall commence as of the date and time specified in Item 4 of the Attachment and shall terminate at the time of expiration of that license specified in Item 2 of the Attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or any obligation of the Commission under this agreement with respect to any nuclear incident occurring during the term of this agreement.

UNITED	STATES	ATOMIC	ENERGY	COMMISSION
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Item 4—The indemnity agreement designated above, of which this Attachment is a part, is effective as of _____ m., on the ____ day of _____, 19 __.

For the United States Atomic Energy Commission.

By _____ For the _____(Name of licensee)

Dated at Germantown, Md., the ____ day of ____, 19 __.

Dated at Germantown, Md., this 14th day of April 1961.

For the Atomic Energy Commission.

Woodford B. McCool, Secretary.

[F.R. Doc. 61-3638; Filed, Apr. 21, 1961; 8:45 a.m.]

Notices

DEPARTMENT OF STATE

[Pub. Notice 187; Delegation of Authority 99-A]

UNDER SECRETARY OF STATE FOR ECONOMIC AFFAIRS, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AFFAIRS, OR ASSISTANT SECRETARY OF STATE FOR INTERAMERICAN AFFAIRS

Delegation of Authority Relating to Proclamation No. 3401

Pursuant to the authority vested in me by Section 4 of the Act of May 26, 1949, as amended (5 U.S.C. 151c), I hereby delegate to the Under Secretary of State for Economic Affairs or the Assistant Secretary of State for Economic Affairs or the Assistant Secretary of State for Inter-American Affairs the authority to perform all of the functions which the Secretary of State is authorized to perform pursuant to and under the authority of Proclamation Number 3401 (26 F.R. 2849), issued by the President on March 31, 1961.

Delegation of Authority No. 99 dated July 13, 1960, is canceled and superseded by this delegation.

uns delegation.

Dated: April 13, 1961.

[SEAL]

DEAN RUSK, Secretary of State.

[F.R. Doc. 61-3667; Filed, Apr. 21, 1961; 8:48 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[426.853]

TELLUROMETERS
Tariff Classification

APRIL 18, 1961.

The Bureau of Customs published a notice in the Federal Register dated August 23, 1960 (25 F.R. 8084), that the existing practice of classifying Tellurometers, devices used in surveys for precise measurement of distance on the earth's surface by means of a microwave system which measures the travel time of an electrical signal, as articles, not specially provided for, having as an essential feature an electrical element or device, under paragraph 353, Tariff Act of 1930, with duty at the rate of 13¾ percent ad valorem, was under review.

The Bureau in a letter dated April 18, 1961, addressed to the collector of customs, New York, New York, ruled that such devices were classifiable as surveying instruments under paragraph 360 of the tariff act and dutiable at the rate of 35 percent ad valorem.

Insofar as this decision will result in the assessment of duty at a rate higher

than that which has heretofore been assessed under an established and uniform practice, it will be applied only with respect to such or similar merchandise entered, or withdrawn from warehouse, for consumption after 90 days after the date of publication of an abstract of the decision in the weekly Treasury Decisions.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F.R. Doc. 61-3679; Filed Apr. 21, 1961; 8:50 a.m.]

Office of Comptroller of the Treasury INSURED BANKS EXCEPT MUTUAL SAVINGS BANKS

Joint Call for Report of Condition

Cross Reference: For a document concerning insured banks except mutual savings banks, see Federal Deposit Insurance Corporation, F.R. Document 61–3677. infra.

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS EXCEPT MUTUAL SAVINGS BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a) (3) of the Federal Deposit Insurance Act each insured bank is required to make a Report of Condition as of the close of business, April 12, 1961, to the appropriate agency designated herein, within ten days after notice that such report shall be made: *Provided*, That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its

the District of Columbia shall make its original Report of Condition on Office of the Comptroller Form 2130-A-Call No. 437,1 and send the same to the Comptroller of the Currency, and a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition on Federal Reserve Form 105—Call 159,1 and send the same to the Federal Reserve Bank of the District wherein the bank is located, and a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original Report of Condition on Form 64—Call No. 55, and send the same to the Federal Deposit Insurance Corporation.

The original Report of Condition required to be filed hereunder with the Comptroller of the Currency and the copy thereof required to be filed with the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for preparation of Reports of Condition by National Banking Associations," dated January 1961. The original Report of Condition required to be filed hereunder with the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be filed with the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the preparation of Reports of Condition by State Member Banks of the Federal Reserve System,' dated February, 1961.1 The original Report of Condition required to be made hereunder with the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the preparation of Report of Condition on Forms 64, by insured State Banks not members of the Federal Reserve System," dated January, 1961.1

RAY M. GIDNEY, Comptroller of the Currency.

WILLIAM McCHESNEY MARTIN, Jr., Chairman, Board of Governors of the Federal Reserve System.

> ERLE COCKE, Sr., Chairman, Federal Deposit Insurance Corporation.

[F.R. Doc. 61-3677; Filed, Apr. 21, 1961; 8:50 a.m.]

INSURED MUTUAL SAVINGS BANKS Joint Call for Report of Condition

Pursuant to the provisions of section 7(a) (3) of the Federal Deposit Insurance Act each insured mutual savings bank is required to make a Report of Condition as of the close of business, April 12, 1961, to the appropriate agency designated herein, within ten days after notice that such report shall be made: Provided, That if such reporting date is a non-business day for any bank, the preceding business day shall be its reporting date.

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original Report of Condition on Form 64 (Savings), prepared in accordance with "Instructions for the preparation of Report of Condition on Form 64 (Savings) and Report of Income and Dividends on Form 73 (Savings) by Mutual Savings Banks," dated January, 1961, and send the same to the Federal Deposit Insurance Corporation. Each insured mutual savings bank which is a member of the Federal Reserve System shall make its original

¹ Filed as part of original document.

Report of Condition on Federal Reserve Form 105—Call 159, prepared in accordance with "Instructions for the preparation of Reports of Condition by State Member Banks of the Federal Reserve System," dated February, 1961,1 and send the same to the Federal Reserve Bank of the District in which it is located, and a signed and attested copy thereof to the Federal Deposit Insurance Corporation.

ERLE COCKE, Sr., Chairman, Federal Deposit Insurance Corporation. WILLIAM McCHESNEY MARTIN, Jr., Chairman, Board of Governors of the Federal Reserve System.

[F.R. Doc. 61-3678; Filed, Apr. 21, 1961; 8:50 a.m.]

FEDERAL RESERVE SYSTEM

CERTAIN INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document concerning insured banks except mutual savings banks, see Federal Deposit Insurance Corporation, F.R. Document 61-3677, *supra*. For a document concerning insured mutual savings banks, see Federal Deposit Insurance Corporation, F.R. Document 61-3678, supra.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service DE WITT AUCTION ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act, as amended (7 U.S.C. 202), and were, therefore, subject to the act, and notice was given to the owners and to the public by posting notice at the stockyards as required by said section 302.

Name and Location of Stockyard; Date of Posting

ARKANSAS

De Witt Auction, De Witt; Mar. 13, 1961. TLLINOIS

Price's Livestock Marketing Co., Shelbyville; Mar. 21, 1961.

KANSAS

Yates Center Cattle & Calf Auction, Yates Center; Mar. 15, 1961.

MINNESOTA

Helmer & Jim Nielsen Dairy Cattle Market, Emmons; Mar. 21, 1961.

SOUTH CAROLINA

Edgefield County Stock Yard, Edgefield; Feb. 15, 1961.

TEXAS

Memphis Live Stock Auction Co., Inc., Memphis; Mar. 6, 1961.

VIRGINIA

Farmville Livestock Market, Farmville; Mar. 20, 1961.

WISCONSIN

Equity Livestock Auction Market, Johnson Creek; Jan. 26, 1961.

Moore's Livestock Co., Sturgeon Bay; Mar.

Done at Washington, D.C., this 18th day of April 1961.

> H. L. JONES, Acting Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-3673; Filed, Apr. 21, 1961; 8:49 a.m.]

DOUBLE J AUCTION SERVICE ET AL. Proposed Posting of Stockyards

The Chief of the Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service. United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the act.

Double J Auction Service, Golden, Colo. Greenville Livestock Auction, Greenville,

Palmyra Sales Co., Palmyra, Ill. Woodson Sale Barn, Woodson, Ill. Minden Livestock Commission Co., Minden,

Empire Livestock Marketing Cooperative,

Inc., Lancaster, N.Y. Yemassee Stockyards, Inc., Yemassee, S.C.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the act, as provided in section 302 thereof

Any person who wishes to submit written data, views, or arguments concerning the proposed rule may do so by filing them with the Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 15 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of April 1961.

> H. L. JONES. Acting Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-3674; Filed, Apr. 21, 1961; 8:50 a.m.]

IZARD COUNTY SALES CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the stockyards named herein, originally posted on the respective

dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said act for the reason that they are no longer being conducted or operated as public markets, and are, therefore, no longer subject to the provisions of the act.

Name and Location of Stockyard; Date of Posting

Izard County Sales Co., Melbourne, Ark.; Feb. 19, 1959. McGehee Livestock Auction, McGehee,

Ark.; Feb. 24, 1959.

Tri-County Auction Sales Co. (formerly Fordyce Auction Sale), Fordyce, Ark.; Feb. 24, 1959

West Liberty Auction Co., West Liberty, Iowa; May 20, 1959.

Forest Grove Auction Yard, Forest Grove. Oreg.; Oct. 1, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 18th day of April 1961.

> H. L. JONES. Acting Chief, Rates and Registration Branch, Packers and Stockyards Division, Agricultural Marketing Service.

[F.R. Doc. 61-3675; Filed, Apr. 21, 1961; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. RI61-444-RI61-447]

TIDEWATER OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates; 1 and Allowing Rate Changes To Become Effective Subject To Refund

APRIL 14, 1961.

Tidewater Oil Company, Docket No. RI61-444; Tidewater Oil Company (Operator), et al., Docket No. RI61-445; Getty Oil Company, Docket No. RI61-446; Texaco, Inc., Docket No. RI61-447.

The above-named Respondents have tendered for filing twenty amendatory agreements providing for renegotiated

¹ Filed as part of original document.

¹ This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

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rates for sales of natural gas to El Paso Natural Gas Company (El Paso) from various fields in counties in the Permian Basin area of Texas and New Mexico. The agreements were entered into pursuant to El Paso's contract renegotiation program in the Permian Basin area. Tidewater Oil Company and Getty Oil Company's agreements are dated February 24, 1961, and Texaco Inc.'s agreements are dated October 26, 1959. No specific effective dates were requested for the proposed agreements.

The agreements provide for rates which were previously submitted by subject producers on a favored-nation basis and such rates are presently in effect subject to refund, having been suspended

for five months. The producers desire that such rates now become effective on a renegotiated basis. No annual dollar increases are involved as the currently effective rates are identical to the proposed favored-nation rates.

The present and proposed rates (all at 14.65 psia) including applicable tax reimbursement, are as follows:

		D 4	G		Amount	Date	Effective date 1	Date sus-	Cents p	er Mcf	Rate in effect sub
Docket No.	Respondent	Rate sched- ule No.	Sup- ple- ment No.	Purchaser and producing area	of annual increase	filing tendered	unless sus- pended	pended until 2—	Rate in effect	Proposed increased rate 3	ject to refund in Docket Nos.
RI61-444	Tidewater Oil Co., P.O. Box 1404,	4	9	El Paso Natural Gas Co. (Levelland Field, Hockley County, Tex.) (R.R.		3-23-61	4-23-61	4-24-61	17.11475	17.11475	RI61-
RI61-444	Houston 1, Texas. Tidewater Oil Co	39	13	District No. 8). El Paso Natural Gas Co. (Langmat (Christmas) Field, Lea County, N.		3-23-61	4-23-61	4-24-61	15. 50174	15. 50174	RI61-
161-444	do	50	11	Mex.). El Paso Natural Gas Co. (Headlee Field, Midland and Ector Counties, Tex.) (R.R. District No. 8)		3-23-61	4-23-61	4-24-61	17. 0816	17.0816	RI61-
RI61-445	Tidewater Oil Company (Operator), et	17	15	El Paso Natural Gas Co. (Spraberry Field, Midland, Reagan, Glasscock, and Upton Counties, Tex.) (R.R.		3-23-61	4-23-61	4-24-61	17.1632	17.1632	RI61-
RI61-445	al.	38	12	District Nos. 7c and 8). El Paso Natural Gas Co. (Langmat (King) Field, Lea County, N.		3-23-61	4-23-61	4-24-61	15. 50174	15. 50174	RI61-
2 T61 _445	do	43	15	Mex.). El Paso Natural Gas Co. (Various Fields, Lea County, N. Mex.).		3-23-61	4-23-61	4-24-61	15. 50174	15. 50174	RI61
RI61-446	Getty Oil Co., c/o Tidewater Oil Co.,	1	8	Fields, Lea County, N. Mex.). El Paso Natural Gas Co. (Dollarhide Field, Andrews County, Tex.) (R.R. District No. 8).		3-23-61	4-23-61	4-24-61	17. 11475	17.11475	RI61
RI61-447	P.O. Box 1404, Houston 1, Tex. Texaco Inc., P.O. Box	17	10	(R.R. District No. 8). El Paso Natural Gas Co. (Slaughter Gas Plant, Hockley County, Tex.)		3-27-61	4-27-61	4-28-61	17.11475	17.11475	RI61
RI61-447	2332, Houston, Tex. Texaco Inc	18	9	(R.R. District No. 8). El Paso Natural Gas Co. (South Fullerton Gas Plant, Andrews County, Tex.) (R.R. District No. 8).		3-27-61	4-27-61	4-28-61	17.11475	17.11475	R161
RI61-447	do	19	8	El Paso Natural Gas Co. (Levelland		3-27-61	4-27-61	4-28-61	17. 11475	17. 11475	R161
RI61-447	do	21	12	Gas. Plant, Hockey County, Tex.) (R. R. District No. 8). El Paso Natural Gas Co. (TXL Gas. Plant, Ector County, Tex.) (R.R.		3-27-61	4-27-61	4-28-61	14. 11879	14. 11879	RI6
RI61-447	do	23	9	District No. 8). El Paso Natural Gas Co. (Big Lake West Field, Reagan County, Tex.)		3-27-61	4-27-61	4-28-61	15. 6831	15. 6831	RI6
RI61-447	do	24	9	(R.R. District No. 7c). El Paso Natural Gas Co. (Jack Herbert Field, Upton County, Tex.) (R.R. District No. 7c).		3-27-61	4-27-61	4-28-61	\$\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\	13. 68225 15. 70925	} RI6:
RI61-447	do	25	10	(R.R. District No. 7c). El Paso Natural Gas Co. (Bedford Field, Andrews County, Tex.) (R.R. District No. 8).		3-27-61	4-27-61	4-28-61	14. 118	14. 118	RI6
RI61-447	do		4	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex.).		3-27-61	4-27-61	4-28-61	15. 5599	15. 5599	RI60
RI61-447 RI61-447	do	29 30	4 6	El Paso Natural Gas Co. (Jalmat, Tubb and Eumont Fields, Lea		3-27-61 3-27-61			15. 5599 15. 5599	15. 5599 15. 5599	R160 R160
DT61_447	do	31	4	County, N. Mex.).		3-27-61	4-27-61	4-28-61	15. 5599	15. 5599	R160
	do	of Health Co.		Field, Lea County, N. Mex.). El Paso Natural Gas Co. (South Andrews Field, Andrews County		3-27-61	4-27-61	4-28-61	13. 6594	13. 6594	RIG
RI61-447_	do	_ 169	5	Tex.) (R.R. District No. 8).	1	3-27-61	4-27-61	4-28-61	15. 6755	15. 6755	RI

¹ The stated effective date is the first day after expiration of the required 30 days' notice.
2 The suspension period is for one day.
3 Renegotiation of rate in lieu of favored-nation rate previously filed.

Since the proposed renegotiated rates exceed the 11.0 cents per Mcf ceiling for increased rates in the Permian Basin area, and the previously submitted favored-nation rates were suspended for five months, it is believed that the proposed renegotiated rates should be suspended for one day from the respective

dates of expiration of statutory notice. The increased rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed

changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon the dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

(B) Pending hearings and decisions thereon, the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act: Provided, however, That said supplements shall become effective on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order said Respondents shall execute and file under their respective above-designated docket numbers with the Secretary of the Commission their agreements and undertakings to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies

Low pressure gas.High pressure gas.

thereof upon all purchasers under the rate schedules involved. Unless said Respondents are advised to the contrary within 15 days after the filing of such agreements and undertakings, their agreements and undertakings shall be deemed to have been accepted.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise or-

dered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 29, 1961.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 61-3591; Filed, Apr. 21, 1961; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1390]

INCORPORATED INVESTORS AND PARKER CORP.

Notice of Filing of Application for Order of Exemption

APRIL 17, 1961.

Notice is hereby given that Incorporated Investors ("Fund"), of Boston, Massachusetts, a Massachusetts corporation and a management open-end diversified investment company registered under the Investment Company Act of 1940 ("Act"), and The Parker Corporation ("Parker"), of Boston, Massachusetts, a Massachusetts corporation and the Fund's principal underwriter, have filed a joint application pursuant to section 6(c) of the Act for an order of the Commission exempting certain sales of Fund shares from the provisions of section 22(d) of the Act.

The price at which the Fund's shares are offered currently to the public, as described in its prospectus, is the net asset value of the shares plus a sales load varying with the dollar amount of the purchase. It is proposed that on or after May 1, 1961, the sales load will be increased. The following table shows the current and proposed sales load expressed as a percentage of the applica-

ble offering price:

Individual purchase	Present sales load	Proposed sales load
Up to \$24,999	7½%	8½%
\$25,000 to \$49,999	5¾%	6%
\$50,000 to \$99,999	4%	4½%
\$100,000 to \$249,999	3%	3¾4%
\$250,000 to \$499,000	2½%	2¾4%
\$500,000 to \$999,999	2%	1¾4%
\$1,000,000 and over	1%	1¾4%

The sales load which is currently applicable to a single purchase of a given quantity of shares is also applicable if

such quantity is purchased during any consecutive 13-month period pursuant to a so-called "Investor's Statement of Intention and Price Agreement" entered into between the purchaser and Parker. This is an Agreement in which the purchaser states that within the next thirteen months he intends, but is not committed, to make purchases aggregating a specified amount, and in which it is agreed, and procedures are provided to assure, that the sales load charged on such purchases will be that described in the prospectus for a single transaction of the aggregate amount actually purchased.

Exemption from the provisions of section 22(d) is sought to permit those investors who executed such an agreement within 13 months prior to the effective date of the proposed new public offering price to complete purchases of Fund shares under such agreements at the current rather than the proposed public offering price, if the current price is lower.

Section 22(d) of the Act, with certain exceptions not here relevant, prohibits a registered investment company, its principal underwriter, or a dealer from selling its redeemable securities to any person except at a current public offering price described in its prospectus. Generally speaking, Rule 22d-1 adopted under the Act, among other things, exempts from the provisions of section 22(d) the sale of such securities in accordance with a scale of reducing sales load varying with the aggregate quantity of securities purchased by any person within a period of no more than thirteen months pursuant to a written statement of his intention, if the procedures utilized are described in the prospectus and applicable to sales to all persons. Section 6(c) of the Act provides that the Commission, by rule, regulation or order, may exempt any person or transaction from any provisions of the Act if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the

In support of the application, it is stated that investors with an outstanding "Investor's Statement of Intention and Price Agreement" may be regarded as entitled, under the terms of these agreements, to complete their purchases under such agreements at the public offering price described in the prospectus as in effect at the time of execution of such agreements. It is also pointed out that the Fund will continue to receive the full net asset value of each share sold, if the exemption is granted, and that agreements in effect on March 7. 1961 stated intentions to purchase less than \$500,000 worth of shares.

Notice is further given that any interested person may, not later than April 26, 1961, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such

communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

[F.R. Doc. 61-3664; Filed, Apr. 21, 1961; 8:48 a.m.]

[File No. 70-3954]

DELAWARE POWER & LIGHT CO. AND EASTERN SHORE PUBLIC SERVICE COMPANY OF VIRGINIA

Notice of Proposed Issue and Sale of Notes and Common Stock by Subsidiary Company and Acquisition and Pledge Thereof by Holding Company

APRIL 17, 1961.

Notice is hereby given that Delaware Power & Light Company ("Delaware"), a registered holding company, and Eastern Shore Public Service Company of Virginia ("Virginia") (Salisbury, Md.), a public-utility subsidiary company of Delaware, have filed a joint application-declaration and an amendment thereto, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9(a), 12(d), and 12(f) thereof and Rules 43 and 44 thereunder as applicable to the proposed transactions, which are summarized as follows:

From time to time prior to March 31. 1963, as may be necessary to meet its cash requirements, Virginia proposes to issue and sell to Delaware for cash, at face amount or par value: (1) Not exceeding \$1,000,000 in aggregate face amount of its 41/2 percent promissory notes, due October 1, 1973, and (2) not exceeding an aggregate of 10,000 shares of common capital stock of \$100 par value per share. Delaware proposes to acquire the notes and stock and to pledge them with Chemical Bank New York Trust Company, Trustee, in accordance with the provisions of the Indenture of Mortgage and Deed of Trust of Delaware to said Trustee dated as of October 1. 1943.

It is stated that Virginia will use the proceeds from the sales of the notes and stock to reimburse its treasury for moneys previously expended for construction requirements and to provide funds for future construction expenditures. Proposed additions to Virginia's property and plant are estimated at \$593,125 for 1961 and \$1,656,500 for 1962.

Expenses in connection with the proposed transactions are estimated at \$1,000 as the cost of Federal tax stamps, \$250 for the filing fee of the State Corporation Commission of Virginia and

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\$250 for legal services. All other expenses will be nominal.

The State Corporation Commission of Virginia, which is the regulatory commission of the State in which Virginia is organized and doing business, has authorized the proposed transactions.

It is requested that the Commission's order herein be made effective upon

issuance

Notice is further given that any interested person may, not later than May 2, 1961, request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date said applicationdeclaration, as filed or as further amended, may be granted and permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 61-3663; Filed, Apr. 21, 1961; 8:48 a.m.]

[File No. 24A-1319]

CRAFT GLAS POOLS, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

APRIL 18, 1961.

I. Craft Glas Pools, Inc. (issuer), a Florida corporation, 3790 Northwest 81st Street, Miami 47, Florida, filed with the Commission on December 28, 1959, a notification on Form 1-A and an offering circular relating to a proposed public offering of securities for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder. The offering was commenced on March 2, 1960, and the filing covered 60,000 shares of 5 cents par value common stock to be offered at \$5.00 per share, aggregating \$300,000.00. Strathmore Securities, Inc., 605 Park Building, Pittsburgh 22, Pennsylvania, was named as underwriter.

II. The Commission has reasonable

cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that the issuer failed to amend Paragraphs 4(a) and 6(a) of Schedule I to disclose all information required thereunder.

B. The offering circular contains untrue statements of material facts and omits to state material facts necessary

in order to make the statements made in the light of the circumstances under which they were made not misleading, particularly with respect to the issuer's failure to disclose the correct amount of expenses and underwriting commissions and the true purposes for which a substantial portion of the proceeds from this offering were to be used.

C. The issuer, by using the proceeds from this offering for purposes other than those disclosed, has, through the distribution of these securities, engaged in transactions, practices and a course of business which would operate and did operate as a fraud and deceit upon the purchasers of such securities, in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, tem-

porarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing: that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 61-3662; Filed, Apr. 21, 1961; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-22]

U.S. NUCLEAR CORP.

Notice of Issuance of Byproduct, Source and Special Nuclear Material License

Please take notice that since no requests for a formal hearing have been filed with the Atomic Energy Commission following the filing of notice of proposed licensing action with the office of the Federal Register on March 8, 1961, the Atomic Energy Commission has this date issued License No. 4–5241–3 to U.S. Nuclear Corporation, 801 North Lake Street, Burbank, California. This license authorizes the receipt, packaging and storage of waste byproduct, source and special nuclear material and the transfer of said material to AEC desig-

nated land burial sites at the National Reactor Testing Station, Idaho Falls, Idaho and Oak Ridge National Laboratory, Oak Ridge, Tennessee for disposal, in accordance with the terms and conditions of said license. Notice of the proposed licensing action was published in the Federal Register on March 9, 1961, 26 F.R. 2057.

Dated at Germantown, Md., April 18, 1961.

For the Atomic Energy Commission.

R. LOWENSTEIN,
Acting Director,

Division of Licensing and Regulation.

[F.R. Doc. 61-3637; Filed, Apr. 21, 1961; 8:45 a.m.]

SMALL BUSINESS ADMINISTRA-TION

[Delegation of Authority 30-XV-1, Revision 2, Amdt. 1]

CHIEF, FINANCIAL ASSISTANCE DIVISION

Delegation Relating to Financial Assistance

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 6) (25 F.R. 1706), as amended (25 F.R. 7418, 26 F.R. 177) Delegation of Authority No. XV-1, Revision No. 2. is hereby amended by:

1. Deleting subsection I.A.9(c) in its entirety and substituting in lieu thereof the following: "Amend the hull insurance provision of any authorization issued prior to September 3, 1958, for a loan of

\$20,000 or less."

2. Deleting subsection I.A.10(b) in its entirety and substituting in lieu thereof the following: "The execution and delivery of contracts of sale or of lease or sub-lease, quit-claim, bargain and sale or special warranty deeds, deeds of sale, lease, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing."

Effective date: February 15, 1961.

D. J. FAILOR, Acting Regional Director, Detroit Regional Office.

Notice of Issuance of Byproduct, [F.R. Doc. 61-3666; Filed, Apr. 21, 1961;

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Anadarko Area Office Redelegation Order 1, Amdt. 6]

ANADARKO AREA; AUTHORITY OF AREA FIELD REPRESENTATIVES AND SCHOOL SUPERINTENDENTS

Functions Relating to Credit Matters

Order 1, as amended, is further amended as hereinafter indicated.

1. The heading and general delegation of authority for Part 2 are amended to read as follows:

PART 2-AUTHORITY OF AREA FIELD REP-RESENTATIVES AND SCHOOL SUPERIN-

Subject to the provisions of Part 1. Area Field Representatives and School Superintendents and those persons acting in their stead may exercise the authority of the Area Director as indicated in this part.

2. Three new sections are added to Part 2 under the heading "Functions Relating to Credit Matters" to read as follows:

FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.134 Loan security. The anproval of mortgages of trust chattels and crops on trust or restricted land of an Indian, and assignments of income from trust or restricted land of an Indian. except income from restricted land of heirs or devisees of members of the Five Civilized Tribes, Oklahoma, as security for a loan by any lender.

SEC. 2.135 Assignments of trust property. The approval of assignments of any trust property of an Indian, except land, and authority to act as the Indian's attorney in fact to execute leases on any trust land in which the Indian borrower may have an interest and to apply the rentals on the Indian's indebtedness, for a loan made pursuant to 25 CFR Parts

SEC. 2.136 Release of United States interests. The release of interests of the United States in any trust or restricted property of an Indian, except land.

> H. REX LEE Acting Commissioner.

APRIL 14, 1961.

[F.R. Doc. 61-3650; Filed, Apr. 21, 1961; 8:47 a.m.]

LEASES AND PERMITS

[Bureau Order 551, Amdt. 70]

Redelegation of Authority

APRIL 17, 1961.

Section 12 of Bureau Order 551, as amended, is further amended to read as follows:

SEC. 12. Leases and permits. All those matters set forth in 25 CFR Part 131 except: (1) Powers reserved by the Secretary in § 131.3; (2) the approval of leases which provide for a duration in excess of sixty-five years, inclusive of any provisions for extensions or renewals thereof at the option of the leasee; and (3) the approval of permits on lands permitted to the tribes with provision for the subpermitting thereof.

> JOHN O. CROW, Acting Commissioner.

[F.R. Doc. 61-3651; Filed, Apr. 21, 1961; 8:47 a.m.]

No. 77-7

Bureau of Land Management ALASKA

Notice of Filing of Plat of Survey and Order Providing for Opening of **Public Lands**

In Federal Register Document 61-2549. appearing on page 2486 of the issue for March 23, 1961, the last line of land description in paragraph 4 should read as follows:

Sec. 26: NW1/4SW1/4.

WARNER T. MAY, Manager.

[F.R. Doc. 61-3652; Filed, Apr. 21, 1961; 8:47 a.m.]

Geological Survey

[Survey Order 214, Amended and Revised.

CERTAIN OFFICIALS AND **EMPLOYEES**

Redelegation of Authority To Enter Into Contracts

APRIL 17, 1961.

Survey Order 214, March 15, 1961 (26 F.R. 2418), is amended as follows:

- 1. Category (7) is added to that order as follows:
- (7) With respect to contracts for test drilling or other sampling processes not exceeding \$1,000, to: Heads of Field Offices, Branch of Mineral Classification, Conservation Division.

THOMAS B. NOLAN, Director.

[F.R. Doc. 61-3685; Filed, Apr. 21, 1961; 8:51 a.m.]

Office of the Secretary JAMES S. BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of April 4, 1961

Dated: April 4, 1961.

JAMES S. BROADDUS.

[F.R. Doc. 61-3654; Filed, Apr. 21, 1961; 8:47 a.m.]

ARTHUR E. CASE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28. 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None.
- (2) None. (3) None.
- (4) None.

This statement is made as of March 31.1961

Dated: March 31, 1961.

ARTHUR E. CASE.

[F.R. Doc. 61-3655; Filed, Apr. 21, 1961; 8:47 a.m.]

CHARLES M. CUSTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28. 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None.
- (2) None.
- (3) None
- (4) None.

This statement is made as of April 5.

Dated: April 5, 1961.

CHARLES M. CUSTER.

[F.R. Doc. 61-3656; Filed, Apr. 21, 1961; 8:47 a.m.]

JOHN W. HIERONYMUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- None. (2) None
- (3) None.

This statement is made as of April 4,

Dated: April 4, 1961.

JOHN W. HIERONYMUS.

[F.R. Doc. 61-3657; Filed, Apr. 21, 1961; 8:47 a.m.]

HOMER G. KEESLING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28. 1955, the following changes have taken

the past six months:

- None.
- (2) None. (3) None.
- (4) None.

This statement is made as of April 6, 1961.

Dated: April 6, 1961.

HOMER G. KEESLING.

[F.R. Doc. 61-3658; Filed, Apr. 21, 1961; 8:47 a.m.]

GEORGE A. PORTER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) None.

- (2) Addition: Charles Pfizer Co. Dele-ons: Parke, Davis & Co. Studebakertions: Packard Corp.
 - (3) None.

(4) None.

This statement is made as of April 11, 1961.

Dated: April 11, 1961.

GEORGE A. PORTER.

[F.R. Doc. 61-3659; Filed, Apr. 21, 1961; 8:48 a.m.]

EDWARD W. WELCH

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) My entire financial assets consist of: U.S. Government bonds, bank deposits and Real Estate, consisting of my homestead (unencumbered), located in the City of Jamesville, Rock County, Wis.
(2) Deletions: None. Additions: Pur-

chased U.S. Government Bonds.

(3) None.

(4) None.

This statement is made as of April 5, 1961.

Dated: April 5, 1961.

E. W. WELCH.

[F.R. Doc. 61-3660; Filed, Apr. 21, 1961; 8:48 a.m.]

EDWARD F. ZIEGLER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28,

place in my financial interests during 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None. (2) None.
- (3) None.
- (4) None.

This statement is made as of April 5, 1961.

Dated: April 5, 1961.

E. F. ZIEGLER.

[F.R. Doc. 61-3661; Filed, Apr. 21, 1961; 8:48 a.m.1

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 19, 1961.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37054: Substituted service-C & O and LV for Transamerican Freight Lines, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 200), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Detroit and Saginaw, Mich., on the one hand, and Jersey City, N.J., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-

I.C.C. A-195.

FSA No. 37055: Substituted service-Erie-Lackawanna for Norwalk Truck Lines, Inc., et al. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 201), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Chicago, Ill., and Jersey City, N.J., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-195.

FSA No. 37056: Substituted service-Wab. and Erie-Lackawanna for Chicago Express, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 202), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Kansas City, Mo., and Jersey City, N.J., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck comnetition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-195.

FSA No. 37057: Substituted service-Wab., et al., for Spector Freight System. Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 203), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Chicago, Ill., on the one hand, and Boston, Springfield, Worcester, Mass., Hartford, New Haven, Conn., and Providence, R.I., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-195.

FSA No. 37058: Substituted service-NJI & I, et al., for Spector Freight System, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 204) for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between South Bend, Ind., on the one hand, and Boston, Springfield, Worcester, Mass., Hartford, New Haven, Conn., and Providence, R.I., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-195

FSA No. 37059: Substituted service-Wab., et al., for Spector Freight System, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 205), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Chicago, Ill., on the one hand, and East Cambridge, Holyoke and Worcester, Mass., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-

I.C.C. A-195. FSA No. 37060: Substituted service-TP & W and PRR for Chicago Express, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 206), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Peoria, Ill., on the one hand, and Baltimore, Md., Kearny, N.J., and Philadelphia, Pa., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition. Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-I.C.C. A-195.

FSA No. 37061: Substituted service-Wab. and LV for General Expressways, Inc. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 207), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Chicago, Ill., and Jersey City. N.J., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-

I.C.C. A-195.

FSA No. 37062: Substituted service-PRR for Roadway Express, Inc., et al. Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 208), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Grand Rapids, Mich., and Kearny, N.J., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-

I.C.C. A-195.

FSA No. 37063: Substituted service-PRR for Transamerican Freight Lines, Filed by The Eastern Central Motor Carriers Association, Inc., Agent (No. 209), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars, between Chicago and East St. Louis, Ill., Indianapolis, Ind., Louisville, Ky., Detroit, Mich., and Cleveland, Ohio, on the one hand, and Baltimore, Md., on the other, on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck com-

petition.

Tariff: The Eastern Central Motor Carriers Association, Inc., tariff MF-

I.C.C. A-195.

FSA No. 37064: Concrete slabs from and to points in southern territory. Filed by O. W. South, Jr., Agent (SFA No. A4086), for interested rail carriers. Rates on slabs, cement or reinforced concrete, without glass insertions, in carloads, between points in southern territory, also between points in southern territory, on the one hand, and Ohio and Mississippi River crossings and points in Virginia, West Virginia and Washington, D.C., on the other.

Grounds for relief: Short-line distance

formula and grouping.

Tariff: Supplement 34 to Southern Freight Association tariff I.C.C. S-101. FSA No. 37065: Fluorspar from Rosiclare, Ill., to Point Comfort, Tex. Filed by Southwestern Freight Bureau, Agent (No. B18005), for interested rail carriers. Rates on fluorspar, in carloads, from Rosiclare, Ill., to Point Comfort, Tex.

Grounds for relief: Water competition. Tariff: Supplement 14 to Southwestern

Freight Bureau tariff I.C.C. 4400.

FSA No. 37066: Gravel from Attica. Ind., to Ivesdale and Sadorus, Ill. Filed by Illinois Freight Association, Agent (No. 134), for the Wabash Railroad Company. Rates on gravel, road surfacing. in carloads, from Attica, Ind., to Ivesdale and Sadorus, Ill.

competition

Tariff: Supplement 113 to Wabash Railroad Company's tariff I.C.C. 7844.

FSA No. 37067: Gravel from Dickason Pit, Ind., to Moccasin, Ill. Filed by Illinois Freight Association, Agent (No. 136), for the Chicago & Eastern Illinois Railroad Company. Rates on gravel, road surfacing, in carloads, from Dickason Pit, Ind., to Moccasin, Ill.

for relief: Motor-truck Grounds

competition.

Tariff: Supplement 8 to Chicago & Eastern Illinois Railroad Company's tariff I.C.C. 330.

By the Commission.

[SEAL] HAROLD D. McCOY,

Secretary.

[F.R. Doc. 61-3671; Filed, Apr. 21, 1961. 8:49 a.m.1

[Notice 482]

MOTOR CARRIER TRANSFER **PROCEEDINGS**

APRIL 19, 1961.

Synopses or orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below.

As provided in the Commission's Special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their

petitions with particularity.

No. MC-FC 63850. By order of April 17, 1961, the Transfer Board approved the transfer to Clawges Transfer Co., a corporation, Westover, W. Va., of Certificates Nos. MC 18416, MC 18416 Sub 9. MC 18416 Sub 10, and Corrected Certificate No. MC 18416 Sub 4, issued June 5, 1943, September 29, 1950, May 25, 1954, and January 16, 1947, respectively, to Arthur I. Clawges, doing business Clawges Transfer, Westover, West Virvinia, authorizing the transportation of household goods, as defined by the Commission, over irregular routes, between points in Cass, Grant, Clinton, Morgan Union Townships, Monongalia County, W. Va., on the one hand, and, on the other, points in Maryland and the District of Columbia; and between points in Monongalia County, W. Va., on the one hand, and, on the other, points in Maryland, Ohio, and Pennsylvania, traversing Virginia and the District of Columbia for operating convenience only: general commodities, including household goods. but excluding commodities in bulk, over regular routes, between Morgantown. W. Va., and Oakland, Md.; general commodities, excluding household goods and commodities in bulk, over irregular routes, between Morgantown, W. Va., and points in West Virginia within 25 miles of Morgantown, on the one hand, and,

Grounds for relief: Motor-truck on the other, East Liverpool, Ohio, and Pittsburgh and Jeannette, Pa.; and over regular and irregular routes, between Pittsburgh, Pa., and points in West Virginia; serving intermediate points between Pittsburgh and the Pa.-W. Va. State line; and off-route points within 20 miles of Pittsburgh; meats, meat products, dairy products and articles distributed by meat packing houses, from Morgantown, W. Va., to points in specified West Virginia counties; wooden boxes, over irregular routes, from Clarksburg, W. Va., to specified areas in Pennsylvania and in Ohio; and hardware, general store supplies and fixtures, and mine supplies and mine machinery, and such materials and equipment as are used in mining operations, from points in Monongalia County, W. Va., to points in Greene, Allegheny, Fayette, Westmoreland and Washington Counties, Pa., and rejected shipments of the above-specified commodities and empty oil containers on return. Hale J. Posten, 174 Chancery Row, Morgantown, W. Va., attorney for applicants

No. MC-FC 63970. By order of April 17, 1961, the Transfer Board approved the transfer to Philip R. Price, doing business as Price's Charter Service, Chance, Md., of Certificate in No. MC 115156 Sub 1, issued June 20, 1955, to William Harvey Cullen and Mary Abbott Cullen, a partnership, doing business as Cullen's Transit Line, Crisfield, Md., authorizing the transportation of: Passengers and their baggage in the same vehicle, between Salisbury, Md., and Crisfield, Md., serving all intermediate

No. MC-FC 64048. By order of April 17, 1961, the Transfer Board approved the transfer to Joe C. Trevino and Joe C. Trevino, Jr., a partnership, doing business as Southern Trucking Company, 420 Market St., Laredo, Texas, of Certificates in Nos. MC 108311 and MC 108311 Sub 1, issued November 30, 1949, and March 21, 1952, respectively, to Joe C. Trevino, doing business as Southern Trucking Co., 420 Market St., Laredo, Texas, authorizing the transportation of: General commodities, except those of unusual value, dangerous explosives, household goods, and liquid bulk commodities, between Laredo, Texas and points in Texas within five miles of Laredo, on the one hand, and, on the other, the boundary of the United States and Mexico at Laredo.

No. MC-FC 64062. By order of April 17. 1961, the Transfer Board approved the transfer to W. J. Isom, Sr., and W. J. Isom, Jr., a partnership, doing business as San Antonio Banana Company, San Antonio, Tex., of the operating rights authorized in the Examiners report in No. MC 118153, served January 19, 1961, effective February 20, 1961, authorizing the transportation of: Bananas from New Orleans, La., to San Antonio, Tex., and from San Antonio, Tex., to Salt Lake City, Utah. Robert L. Strickland, 715 Frost Bank Building, San Antonio 5, Texas, attorney for applicants.

[SEAL] HAROLD D. McCOY, Secretary.

[F.R. Doc. 61-3672; Filed, Apr. 21, 1961; 8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE-APRIL

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